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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

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MAY 1 1 2006
OFFICE OF PETITIONS

In re Application of :
Jones et al. :
Application No. 10/188,447 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket Number: 24935C :
Title of Invention: Method of Reinforcing and :
Waterproofing a Paved Surface :

This is a decision on the petition filed April 7, 2005, under 37 CFR 1.137(a) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. 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 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 November 8, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. A supplemental Notice of Allowability was mailed on January 18, 2006 maintaining the same reply period. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 9, 2006. This decision precedes the mailing of a Notice of Abandonment.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(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 this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more 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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner contends the delay in paying the the issue and publication fees was due to clerical error on the part of the docket clerk. The docket clerk attempted to send the issue fee transmittal form via facsimile to the number programed in the fax machine. The docket clerk was not aware that a new fax number was in place and that the fax machine had not been programed with the new number. Petitioner contends "although the fees were timely authorized and transmitted, they were not received by the Patent Office". The docket clerk did not become aware of the status of the application until the status was checked on PAIR. In support, petitioner has provided a copy of the fax

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

[2] See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

transmittal form (exhibit A) has been submitted.

The petition has been considered and it has been determined the arguments presented is not convincing to establish unavoidable delay.

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable"delay, provided it is shown that:

(A) the error was the cause of the delay at issue;

(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

As to item (B), petitioner has failed to establish there was a business routine in place for transmitting faxes and for updating any equipment with current numbers.

As to item (C), petitioner has failed to present any evidence to establish the docket clerk was sufficiently trained and experienced with regard to the clerical function in question. An adequate showing of clerical error also requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Petitioner must also supply information regarding the training provided to the personnel responsible for the clerical error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned task. Petitioner should state who was responsible for monitoring and entering changes in phone numbers.

Further, a review of Exhibit A shows that the fax report clearly shows that the fax machine at (703) 746-4000 did not answer. The copy of the fax transmittal contains a fax key which indicates that E3 indicates the fax at the Patent Office did not answer. The transmittal also shows that the pages 1-2 were not sent. The failure to review the fax result report was avoidable

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee ($750.00 for small entity, $1500 for other than small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned

until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

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OFFICE OF PETITIONS

In re Application of
Jones et al.
Application No. 10/188,447
Filed: July 3, 2002
Attorney Docket Number: 24935C
Title of Invention: Method of Reinforcing and Waterproofing a Paved Surface

ON PETITION

This is a decision on the petition filed May 18, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 8, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. A supplemental Notice of Allowability was mailed on January 18, 2006 maintaining the same reply period. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 9, 2006. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(a) was dismissed on May 11, 2006.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

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JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Jeong-Sik Cho et al :
Application No. 10/188,477 :
Filed: July 3, 2002 :
Attorney Docket No. 5000-1-252 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed June 15, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

The matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114.

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

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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

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Paper No. 4

#6

Otto O. Lee
Suite 1205
12 South First Street
San Jose, CA 95113

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Chou	:	
Application No. 10/188,500	:	DECISION DISMISSING
Filed: July 1, 2002	:	PETITION
Attorney Docket No. SHENW.CONT3	:	

This is a decision on the petition filed August 26, 2002, requesting entry of Figures 3, 4, and 5, submitted on August 26, 2002.

The petition is **dismissed**.

On July 1, 2002, the application was deposited.

On August 20, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 3, 4, and 5 were missing.

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

It is noted that the application transmittal letter identified this application as a continuation of several applications and and specifically incorporated by reference the disclosure of the prior applications. MPEP 201.06(c) states that:

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

If petitioner desires for the examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit those pages via a formal amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The pages submitted with the petition will <u>not</u> be entered. Should petitioner wish for the pages to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 1, 2002, using only the application papers filed on July 1, 2002.

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

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

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Paper No. 15

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Belle L. Chou
Application No. 10/188,500
Filed: July 1, 2002
Attorney Docket No. SHENW.CONT3

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1615 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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Paper No. 18

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

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AUG 1 2 2004
OFFICE OF PETITIONS

In re Application of :
Belle L. Chou :
Application No. 10/188,500 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No.: SHENW.CONT3 :

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 10, 2004.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

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

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 1615 for further examination in due course.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Forster :
Application No. 10/188,512 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. 063170.2462 (20000085) :

This decision concerns the June 20, 2003 petition under 37 CFR 1.47(b) and the concurrently filed petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.47(b) is **DISMISSED.**
The petition under 37 CFR 1.137(b) is **DISMISSED.**

Background

The application was filed without an oath or declaration. On August 23, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable 2-month period for submitting a proper oath or declaration.

No reply was filed on or before March 24, 2003 (Monday), and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on October 24, 2002.

Petition under 37 CFR 1.47(b)

The application names a sole inventor, Karl D. Forster ("Forster"). The petition asserts that Forster refused to sign the application papers, and requests that Forster's former employer Sterling Software, Inc. ("Sterling") be allowed to file the application on behalf of, and as agent for, Forster.[1]

Under 37 CFR 1.47(b), Sterling may do so, provided that:

(1) Sterling has a demonstrated proprietary interest in the invention claimed in the

[1] According to the petition, Forster at one point worked for both Sterling and CoreData, Inc. ("CoreData"). CoreData merged into Sterling on 7/26/99.

application;[2]

(2) The oath/declaration is properly executed by an officer of Sterling, or one specifically authorized by Sterling to sign the oath/declaration on its behalf;

(3) The petition includes a statement of facts by those with firsthand knowledge of the facts recited therein, establishing that Forster refused to sign the application oath/ declaration despite the *bona fide* attempt made to present to him a copy of the entire application (specification including claims; drawings);[3]

(4) The petition includes a statement that a filing date for the application is necessary to preserve the rights of the parties or to prevent irreparable damage;[4]

(5) The petition includes Forster's last known address;[5] and

(6) The petition includes the petition fee set forth in 37 CFR 1.17(h) (currently $130).

The requirements in items (2)-(6) are considered met.

As discussed below, the petition lacks item (1).

The instant application was filed in July of 2002. To establish Sterling's proprietary interest in this application, the petition encloses a copy of Forster's employment agreement with CoreData (1977; Exhibit B) and Sterling (1999; Exhibit C). However, there is no evidence that Forster made (conceived; reduced to practice) the claimed invention during his tenure at CoreData and/or Sterling;[6] that he agreed in writing to assign the rights in the instant claimed invention to CoreData and/or Sterling; or that Sterling otherwise has sufficient proprietary interest in the instant claimed invention to justify its filing of the application.[7] In fact, in the 1999 employment

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[2] MPEP 409.03(f) (Rev. 1, Feb. 2003).

[3] MPEP 409.03(d) (Rev. 1, Feb. 2003).

[4] MPEP 409.03(g) (Rev. 1, Feb. 2003).

[5] MPEP 409.03(e) (Rev. 1, Feb. 2003);

[6] MPEP 409.03(f) (Rev. 1, Feb. 2003) (When an employment agreement is relied on to establish that the non-signing inventor-employee agreed to assign to his employer all inventions made by him during employment, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed . . .).

[7] E.g., an appropriate legal memorandum to the effect that a court of competent jurisdiction (Federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to Sterling . . . The facts in support . . . should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. See MPEP 409.03(f) (Rev. 1, Feb.

agreement with Sterling, Forster specifically reserved his rights in any inventions made by him, on his own time, while employed by Sterling. In addition, it is unclear when Forster left the employ of Sterling. Consequently, the Office is unable to conclude that the requirement of item (1) is met.

The §1.47(b) petition is thus dismissed. The Declaration executed on June 19, 2003 by Gerard M. Wissing on behalf of Sterling is not accepted.

The Office acknowledges receipt with the petition of the $130 petition fee, and the $130 surcharge for lacking an acceptable oath/declaration upon filing of the application.

Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a grantable petition to revive an abandoned application must be accompanied by: (1) **the required reply**,[8] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer and the accompanying fee, as required by 37 CFR 1.137(d), for a utility application filed before June 8, 1995.[9]

Here, the cause of abandonment was non-filing of a proper oath/declaration on or before the set deadline. Given that the June 19, 2003 Declaration is not accepted as discussed above, the petition to revive is dismissed for failing to meet the threshold requirement of 37 CFR 1.137(b).

The Office acknowledges receipt with the petition of the $1,300 petition fee.

Options

A renewed §1.137(b) petition (no fee) must be filed within **TWO MONTHS** of the mailing date of this decision,[10] and be accompanied by:

(A) An oath/declaration, properly signed by Forster; **or**,

A renewed §1.47(b) petition (no fee) that meets the requirement in item (1) above;

2003).

[8] Generally, the required reply is the reply sufficient to have avoided abandonment had it been timely filed. In the instant case, the required reply is a properly executed oath/declaration or at least one accepted under a granted §1.47(b) petition. See MPEP section 711.03(c)(III)(A) (Rev.1, Feb. 2003).

[9] Not applicable to this application.

[10] Extensions of time under 37 CFR 1.136(a) are permitted. However, intentionally delaying the filing of a §1.137(b) petition may result in its denial.

(B) A statement that the entire delay in filing a proper oath/declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The renewed petition(s) should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Attn: Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:[11]	(703) 308-6916 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

[11] This facsimile number may not be used for filing petitions after 12/1/03.

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Paper No. 8

BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of	:
Forster	: DECISION ACCORDING
Application No. 10/188,512	: STATUS UNDER
Filed: July 3, 2002	: 37 CFR 1.47(b)
Attorney Docket No. 063170.2462 (20000085)	:

This decision concerns the December 23, 2003 renewed petitions under 37 CFR 1.47(b) and 37 CFR 1.137(b).

The petition under 37 CFR 1.47(b) is **GRANTED.**
The petition under 37 CFR 1.137(b) is **GRANTED.**

Renewed petition under 37 CFR 1.47(b)

Based on the renewed §1.47(b) petition and accompanying exhibits, the Office concludes that the sole inventor named in the application, Karl D. Forster, has refused to sign the application declaration, and that Sterling Software, Inc. is the proper party for filing this application on behalf of, and as agent for, Karl D. Forster. Accordingly, the declaration signed by an officer of Sterling Software, Inc. and submitted with the June 20, 2003 petition is hereby accepted. The §1.47(b) petition is thus granted.

The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Karl D. Forster at his last known address indicated in the June 20, 2003 petition:

6835 East Meadowlark Lane
Paradise Valley, AZ 85253

Notice of the filing of this application will also be published in the *Official Gazette*.

Renewed petition under 37 CFR 1.137(b)

Given that the June 20, 2003 declaration has been accepted upon grant of the renewed §1.47(b) petition, the renewed §1.137(b) petition is also granted.

Correction of inventor name

The Office acknowledges receipt with the June 20, 2003 petition of the "Submission of Substitute Application Cover Sheet" which indicates that the inventor's middle initial should be "D" as shown in the June 20, 2003 declaration, rather than "J."

The application file is being returned to the Office of Initial Patent Examination for revising the USPTO record to reflect the correct inventor name. Thereafter, the file will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

In re Application of :
Schrum, et al. :
Application No. 10/188,513 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. ICI-02100 :
For: VARIABLE RESISTANCE DEVICES AND METHODS

This is a decision on the petition under 37 CFR 1.181, filed August 16, 2004, 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 reply to the March 3, 2004 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on June 4, 2004. A Notice of Abandonment was mailed on July 26, 2004.

Petitioners allege that the March 3, 2004 Notice was not received at the then-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 fee requirements would have been entered had the Notice been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the docket record and the file jacket for the March 3, 2004 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center GAU 2832 for the re-mailing of the March 3, 2004 Notice of Allowance and Fee(s) Due 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06232006

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

JUL 3 2006

In re Application of	:	
Allan SCHRUM et al.	:	DECISION ON PETITION
Application No. 10/188,513	:	
Filed: July 3, 2002	:	
Attorney Docket No.: 018513-001800US	:	

This is a decision on the petition filed August 16, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on March 3, 2004, setting a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance was not received by applicant's representative and attests to the fact that a search of the file and docket records indicates that the Notice of Allowance was not received. The petition is accompanied by a copy of the patent property status report where the Notice of Allowance would have been entered, had it been received, and a declaration by Robyn Hess, the Manager of the Docketing and Patent Tax Department.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered, had it been received, and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c).

Applicant has provided the required statement attesting to the fact that a search of the file and docket records indicates that the Notice of Allowance was not received. Further, applicant has provided a copy of the patent property status report where the non-received Notice of Allowance would have been entered, had it been received, and docketed.

Since applicant has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The period for response set therein will be reset to expire three months from the date these Notices are remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

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

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

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Silber & Fridman
66 Mount Prospect Avenue
Clifton, NJ 07013

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald P. Hohmann, et al.	:	
Application No. 10/188,536	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. PHO-222	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the non-final Office action of September 9, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $795 extension of time fee submitted on April 4, 2005 was subsequent to the maximum extendable period for reply, the fee is unnecessary. Accordingly, the extension of time fee will be applied towards the required petition fee of $750, leaving a balance of $45 due to petitioner. In view of thereof, petitioner may request a refund of $45 by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG - 9 2004

In re Application of Lawrence Restaino Serial No. 10/188,552 Filed: July 5, 2002 For: CHROMOGENIC PLATING MEDIUM FOR THE RAPID PRESUMPTIVE IDENTIFICATION OF BACILLUS ANTHRACIS, BACILLUS CEREUS, AND BACILLUS THURINGIESIS	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

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

RECEIVED
OCT 29 2004
OIPE/JCWS

Marshall A. Burmeister
P.O. Box 824
Chicago, IL 60690-1348

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

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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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B

AUG - 9 2004

In re Application of Lawrence Restaino Serial No. 10/188,552 Filed: July 5, 2002 For: CHROMOGENIC PLATING MEDIUM FOR THE RAPID PRESUMPTIVE IDENTIFICATION OF BACILLUS ANTHRACIS, BACILLUS CEREUS, AND BACILLUS THURINGIESIS	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

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

RECEIVED
OCT 29 2004
OIPE/JCWS

Marshall A. Burmeister
P.O. Box 824
Chicago, IL 60690-1348

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-9-06

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6,825,785

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:

REXFORD BARNIE
SUPERVISORY PATENT EXAMINER

Rexford Barnie
SPE

2819
Art Unit

PTO/SB/44 (-96)
Approved for use through 6/30/99. OMB 0651-0033
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 : 6,825,785 B1

DATED : November 30, 2004

INVENTOR(S) : Yunteng Huang, Bruno W. Garlepp, and David R. Welland

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

a) Title page, Column 1, Section 75 Inventors: after "Bruce W. Garlepp" please insert the the following new line -- David R. Welland, Austin, TX (US) --.

b) Claim 13, line 5: the word "DACS" should read -- DACs --.

PATRICK WAMSLEY
PRIMARY EXAMINER
Noted - 02/08/2006

MAILING ADDRESS OF SENDER:
ZAGORIN, O'BRIEN & GRAHAM, L.L.P.
7600B N. Capital of Texas Hwy., Suite 350
Austin, Texas 78731

PATENT NO. 6,825,785

- 3 JAN 2005

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

Paper No. 6

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Okkels
Application No. 10/188,594
Filed: July 3, 2002
Attorney Docket No. 4339.214-US

DECISION GRANTING PETITION

This is a decision on the petition filed August 22, 2002 (certificate of mailing date August 15, 2002), to accord the above-identified application a filing date of July 3, 2002.

On July 3, 2002, the application was deposited.

On July 24, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings, a copy of the "Sequence Listing," and a statement that the sequence listing contains no new matter were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that the missing items were inadvertently omitted. However, the original Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application. The petition states that the omitted drawing figures and the sequence listing attached to the petition are identical to those found in parent application No. 09/008,363.

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

Based on the incorporation by reference, it appears that the drawings and sequence listing were present in the Office on July 3, 2002, albeit in the file of another application, i.e., application No. 09/008,363. Therefore, on petition, the application may be accorded the requested filing date of July 3, 2002.

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

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 3, 2002, using the application papers filed on July 3, 2002 and

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[1] The Office assumes that the specification, drawings, and claims are a true and exact copy of the drawings and sequence listing submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant specification and drawings to the disclosure of the parent application in order to verify that the specification and drawings are, in fact, parts of the disclosure of the prior application.

the copy of the drawings and sequence listing filed on August 22, 2002 (certificate of mailing date August 15, 2002.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

12-6-06

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

Patent No. : 7,071,981
Inventor(s) : Bor-Yuan Chester Hwang
Issued : July 4, 2006
Title : IMAGE SENSING SYSTEM AND METHOD
Docket No. : 079981-023901/US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

By hand: Customer Service Window
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.

In view of the foregoing, your request is hereby denied.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Jong P. Hong
Greenberg Traurig, LLP
1900 University Avenue, 5th Floor
East Palo Alto, CA 94303

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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MICHAEL P. KENNEY
AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Fred Hafer et al :
Application No. 10/188,605 :
Filed: July 2, 2002 :
Attorney Docket No. 3600/199 :

ON PETITION

This is a decision on the petition, filed December 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 29, 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 3762 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92121

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Fan et al.	:	DECISION ON PETITION
Application No. 10/188,626	:	TO WITHDRAW
Filed: July 1, 2002	:	FROM RECORD
Attorney Docket No. E003-1102US0	:	

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 the attorneys/agents associated with Customer Number 33123 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.

There is an outstanding Office action mailed April 27, 2006 that requires a reply.

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 questions or concerns should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LAW OFFICES OF BARRY N. YOUNG
260 SHERIDAN AVENUE
SUITE 410
PALO ALTO CA 94306-2047

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

CHI FANG KENG
BOX 8-24
CHUNG HO, TAIPEI HSIEN
235 TAIWAN, R.O.C.

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Keng, Chi Fang	:	
Application No. 10/188,635	:	ON PETITION
Filed: June 29, 2002	:	
Attorney Docket No. 901AA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 25, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 26, 2004. A Notice of Abandonment was mailed September 2, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,662,973	2003-12-16	10/188,638	2002-07-02	P-1803

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles J. Prescott/	Date (YYYY-MM-DD)	2008-07-25
Name	Charles J. Prescott	Registration Number	30316

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

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

In re Patent No. 6662973
Issue Date: December 16,2003
Application No. 10188638
Filed: July 2,2002
Attorney Docket No. P-1803

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

This is a decision on the electronic petition, filed July 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

FEB 04 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of: DAVID B. PETRICH
Application No.: 10/188,660
Filed: July 02, 2002
For: **SYSTEM AND METHOD FOR DISCOVERING AND CATEGORIZING ATTRIBUTES OF A DIGITAL IMAGE**

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed April 21, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII), which requests the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
> (B) Presents all claims directed to a **single invention**, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an **election without traverse** as a prerequisite to the grant of special status;
> (C) Submits a statement(s) that a pre - examination search was made, **listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc**. A search made by a foreign patent office satisfies this requirement;
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references (emphasis added).
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission is deficient in that it does not comply with items (B), (C), and (E) above:

(1) It does not contain any language regarding the claims being directed to a single invention, and Petitioner making an election without traverse if the Office determines that all claims are not obviously directed to a single invention.

(2) It does not list the field of search as required by item (C) above.

(3) It does not provide a detailed discussion of the references, which points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. To be able to particularly point out how the claimed invention is patentable over the references as required by item (E) above, at least, a submission should include: (1) with respect to anticipation under 35 USC 102, a comparison between the claimed invention and the references (limitation by limitation); and (2) with respect to obviousness under 35 USC 103, a showing of how and why one of ordinary skilled in the art would not have been able to combine the references. In the instant petition, Petitioner's submission provides short discussions of cited references, and generally states that the references do not disclose "using a target device as recited in the claims," "using a target device as shown in the figures," or "the use of a target device as recited in the claims of the present invention." Such short discussions and general statements, without more, do not comply with item (E) above.

Accordingly, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Apr-07

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

COPY MAILED

APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Foote et al.	:	
Application No. 10/188,667	:	DECISION ON PETITION
Filed: 07/02/2002	:	
Atty Docket No. FXPL-01048US0	:	
IP-02-001	:	

This is a decision on the petition filed on 6 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 October, 2006, for failure to timely submit a proper reply to the final Office action mailed on 18 July, 2006, which set a three (3) month shortened statutory

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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.

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

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

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

period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. An amendment after final rejection was filed on 18 October, 2006, but the examiner determined the amendment did not place the application in condition for allowance, and an Advisory Action was mailed on 24 October, 2006. Notice of Abandonment was mailed on 23 January, 2007.

Applicant has filed a Request for Continued Examination accompanied by a submission under 37 CFR 1.114.

The application is being forwarded to Technology Center Art Unit 2621 for consideration of the RCE and submission.

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

D I Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

In re Application of	:
Jiong-Ping Lu et al	:
Application No. 10/188,682	: DECISION GRANTING PETITION
Filed: July 2, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 4243.1US (50-0043.1)	:

This is a decision on the petition, filed January 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to 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 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

DANIEL D. HALE
12841 LONGDEN
GARDEN GROVE, CA 92845

COPY MAILED

OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Daniel D. Hale	:	
Application No. 10/188,728	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 13, 2003.

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

As to item (1), a petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding official action submitted. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

As to item (2), effective October 1, 2003, the petition fee for unintentional is $665.00 (small entity). Therefore, an additional payment of $15.00 is required to complete the petition fee (unintentional).

As to item (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) is missing.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

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

Attachment: PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

DANIEL D. HALE
12841 LONGDEN
GARDEN GROVE, CA 92845

COPY MAILED

DEC 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Daniel D. Hale	:	
Application No. 10/188,728	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1744.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-28-08

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No. 10/188766 Patent No.: 7351804

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

Priority

E. Jones

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: _____

MM

SPE

1647

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JAN 12 2005

Vickie G. Norton
Pillsbury Winthrop LLP
11682 El Camino Real, Suite 200
San Diego, CA 92130-2593

In re Application of:
Agrafiotis et al.
Serial No.: 10/188,801
Filed: July 5, 2002
Attorney Docket No.: 044988.0305178

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on November 15, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed March 1, 2004.

A review of the file history shows that the examiner mailed an Office action to applicants on March 1, 2004, setting a one-month statutory time period for reply. On October 20, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on March 16, 2004 as evidenced by a copy of the USPTO date-stamped receipt card and the Express Mail receipt. A copy of the response is also provided. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the response of March 16, 2004.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 5 2005

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:
Dimitris K. Agrafiotis et al	:
Serial No.: 10/188,801	: PETITION DECISION
Filed: July 5, 2002	:
Attorney Docket No.: 30923-714.401	:

This is in response to the petition under 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.181, filed June 23, 2005, requesting restarting of the period for response.

A review of the file history shows that the examiner mailed an Office action to applicants on October 3, 2003, setting a one month shortened statutory period for reply. Applicants replied on December 30, 2003, including a "direction" to cancel claims 11-19, but did not include any listing of claims. The Office mailed a non-compliant letter to applicants on March 1, 2004, indicating the amendment of December 30, 2003, was improper in that it failed to include a copy of all pending claims. A one month time period was set for reply. On October 20, 2004, the examiner mailed a Notice of Abandonment to applicants for failure to reply. The application was revived upon showing that applicants had timely replied and that the reply was lost by the Office. A new copy of the reply was filed which included the text of claims 7-10 only, indicating claims 1-6 had been canceled and claims 11-19 were withdrawn. The Office mailed a new Notice of Non-Compliant Amendment to applicants on February 2, 2005, stating that (A) a complete listing of all the claims was not present; (B) the listing of claims does not include the text of all pending claims, including withdrawn claims, and (C) each claim has not been provided with the proper status identifier. This Notice was prepared and mailed by the clerical staff of the Office based on applicants' amendment. Applicants replied on March 2, 2005, providing the text of claims 7-19 and proper status identifiers and indicating claims 1-6 had been canceled. On taking the application up for examination the examiner noted the inconsistency in status of claims 11-19 as once having been canceled and now indicated as withdrawn and mailed a new Notice to applicants on June 2, 2005, requiring submission of a corrected amendment. Applicants complied on July 2, 2005, including a four month extension of time request and fee therefor. Applicants request that the time period for the compliant reply be reset to June 2, 2005, and the extension of time fee be refunded.

Applicants' request will not be accommodated. Applicants base their request on the indication in the Notice of Non-compliant Amendment that the text of "withdrawn" claims was not presented (Box 4B having been checked) was in error. As noted above, the clerical staff prepared and

mailed the Notice based on applicants' indication that claims 11-19 were "withdrawn" and not "canceled". Applicants used an incorrect status identifier when listing claims 11-19 which the clerical staff did not know was incorrect and which, accordingly, required them to prepare the Notice. Applicants then submitted an amendment presenting the text of claims 11-19 and the status identifier "withdrawn" apparently having forgotten that they had previously directed that the claims be canceled in their initial reply to the Office action of October 3, 2003. It was only upon examiner consideration that the error was discovered. The error left the correct status of the claims in doubt and required the examiner letter requiring clarification and submission of a correct amendment. Applicants' failure to comply with the Rules in effect at the time the previous amendments were filed resulted in the examiner's requiring clarification. No error on the part of the Office has been found and applicants' request must therefor be denied.

The petition is **DENIED.**

There is no fee for this petition and the petition fee paid of $400.00 will be credited to applicants' Deposit Account No. 23-2415, as directed.

The application will be forwarded to the examiner for further consideration.

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.

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 30, 2005

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6,924,914

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

Also, in column 18, last line, "is" should read --are--.
See attached page including column 18.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2872
Art Unit

maximum intensity is $1/e^2$. Since the light deflector **41** according to this embodiment conducts the anisotropic wet etching by using the silicon substrate of crystal orientation (110), the configuration of the movable plate **6** is limited to a polygonal configuration corresponding to the (111) plane of the single crystal silicon as shown in FIG. **13**. For that reason, in the light deflector **41** formed so as to reflect the entire beam spot according to this embodiment, because a portion that does not contribute to the reflection exists outside of the portion B, the through-hole **7** is formed in that portion, thereby being capable of reducing the inertia moment of the movable plate **6** without deteriorating the optical characteristic of the light deflector.

Also, in this embodiment, the torsion spring **3** may be shaped in an X-shaped section, or a recessed portion may be formed on the side surface of the movable plate **6**. Also, the through-hole **7** may be formed on only one of the surfaces of the movable plate **6** between which the torsion axis of the torsion spring **3** is interposed. Also, in this embodiment, a mode in which the extending direction of the torsion spring **3** is not in parallel with the outer side of the support substrate **2** is shown in FIG. **14**. However, as in other embodiments, in this embodiment, the ends of two spatial portions that are surrounded by the movable plate **6**, the support substrate **2** and the torsion spring **3** and also adjacent to each other through the torsion spring **3** in the longitudinal direction may be aligned.

(Sixth Embodiment)

FIG. **15** is a diagram showing an optical device using the above-mentioned light deflector in accordance with an embodiment. In this embodiment, an image display device is shown as the optical device. Referring to FIG. **15**, reference numeral **201** denotes a light deflector group **21** in which two light deflectors are arranged in such a manner that the deflecting directions of the light deflectors according to the first to fifth embodiments are orthogonal to each other, which is used as an optical scanner device that raster-scans an incident light in the horizontal and vertical directions in this embodiment. Reference numeral **202** denotes a laser beam source. Reference numeral **203** is a lens or a lens group, **204** is a-write lens or lens group, and **205** is a projection surface. The laser beam incident from the laser beam source **202** is subjected to a given intensity modulation related to the light scanning timing and two-dimensionally scanned by the light deflector group **201**. The scanned laser beam allows an image to be formed on the projection surface **205** through the write lens **204**. In this way, the optical device according to this embodiment can be used as a light write means into a laser scanning type image display apparatus for displaying an image to a projection surface, i.e., a laser scanning type projector.

(Seventh-Embodiment)

FIG. **16** is a diagram showing an optical device using the above-mentioned light deflector in accordance with another embodiment. In this embodiment, an image display device is shown as the optical device. Referring to FIG. **16**, reference numeral **201** denotes a light deflector in accordance with the first to fifth embodiments, and is used as an optical scanner device that scans one-dimensionally an incident light. Reference numeral **202** denotes a laser beam source. Reference numeral **203** is a lens or a lens group, **204** is a write lens or lens group, and **206** is a photosensitive member. The laser beam emitted from the laser beam source **202** is subjected to a given intensity modulation related to the light scanning timing and one-dimensionally scanned by the light deflector **201**. The scanned laser beam allows an image to be formed on the photosensitive member **206** through the write lens **204**.

The photosensitive member **206** is uniformly charged by a charger not shown, and a laser beam scans the photosensitive member **206** to form an electrostatic latent image on the portion of the photosensitive member. Then, a toner image is formed on an image portion of the electrostatic latent image by a developing unit not shown, and the toner image is transferred and fixed onto, for example, a sheet not shown, to thereby form an image on the sheet.

In the above-mentioned respective embodiments, the light deflector or the diffraction grating is exemplified as one example, but the torsion oscillating member according to the present invention may be employed as an angular velocity sensor or the like besides the light deflector. Then, since the torsion oscillating member according to the present invention is formed with the recessed portion at a location apart from the shaft on one surface of the movable plate, the inertia moment of the movable plate can be reduced while ensuring the high rigidity, and the spring rigidity of the shaft can be set to be smaller while being the fine torsion oscillating member having the dimensional order of from μm to mm, thereby being capable of reducing the dynamic deflection at the time of torsion vibration.

Also, as described above, according to the present invention, since the recessed portion is formed on a surface of the movable plate opposite to the reflection surface, thereby being capable of reducing the inertia moment of the movable plate while ensuring the high rigidity, and in the fine light deflector having the dimensional order of from μm to mm, the spring rigidity of the elastic support portion can be set to be smaller, thereby being capable of reducing the dynamic deflection at the time of torsion vibration. For that reason, there can be realized the downsized light deflector that can be driven at a high speed, can be driven at a large deflection angle even by an actuator of a low generating force, and is small in distortion even at the high speed operation.

Also, since the light deflector is integrally manufactured by using single crystal silicon, single crystal silicon not only provides a material characteristic low in the density and high in the rigidity, but also enables the fine processing through the etching process, thereby obtaining an optical smooth surface if the mirror ground surface of the silicon substrate is employed. Therefore, the support substrate, the elastic support portion and the movable plate are formed from the silicon substrate of single crystal by using the etching technique, and a recessed portion is formed on one surface of the movable plate whereas a reflection surface is formed on the other surface thereof, thereby being capable of manufacturing the light deflector through a very simple process and also forming the reflection surface on the smooth surface.

The foregoing description of the preferred embodiments of the invention has been presented for purposes of illustration and description. It is not intended to be exhaustive or to limit the invention to the precise form disclosed, and modifications and variations are possible in light of the above teachings or may be acquired from practice of the invention. The embodiments were chosen and described in order to explain the principles of the invention and its practical application to enable one skilled in the art to utilize the invention in various embodiments and with various modifications as are suited to the particular use contemplated. It is intended that the scope of the invention be defined by the claims appended hereto, and their equivalents.

What is claimed is:

1. A light deflector in which both ends of a movable plate is supported to a support substrate by an elastic support

--are--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 2, 2007

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No. 10/188810 patent No.: 6780321

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:

Approved in part;
Do not make the change to column 1, line 39 (this would introduce new grammatical error) or the change to column 2, line 22 ('adsorbed' has different meaning than 'absorbed'/ new matter).

SPE

1723
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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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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Paper No. 9

DOWELL & DOWELL PC
1215 JEFFERSON DAVIS HIGHWAY
SUITE 309
ARLINGTON VA 22202

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of Dat T. Nguyen, Kevin B. Lanqille, Dwight E. Veinot, Jorgen O. Bernt Application No. 10/188,922 Filed: July 5, 2002 Attorney Docket No. 14047	: : : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 1, 2002, and supplemented on January 14, 2003.

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

The above-identified application was filed on July 5, 2002, without a fully executed oath or declaration. Accordingly, on August 1, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a one month extension of time. Included with the petition was a declaration signed by joint inventors Kevin B. Lanqille, Dwight E. Veinot, and Jorgen O. Bernt, but lacking a signature from joint inventor Dat T. Nguyen.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

With the instant petition, attorney Ralph A. Dowell included, *inter alia*, a copy of a written refusal to join the application, dated November 26, 2002, from Nguyen's attorney, Mr. Tapas K. Pain.

The declaration filed November 1, 2002, and the petition 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 Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1714, for docketing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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Washington, D.C. 20231
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DAT T NGUYEN
1516 PINEY CREST
OAKVILLE
ONTARIO L6H 4W2
CANADA

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MAR 17 2003

OFFICE OF PETITIONS

In re Application of :
Dat T. Nguyen, Kevin B. :
Lanqille, Dwight E. Veinot, :
Jorgen O. Bernt : LETTER
Application No. 10/188,922 :
Filed: July 5, 2002
Title: COMPOUND OF INTUMESCENT POWDER AND THERMOPLASTIC MATERIAL

Dear Mr. Nguyen:

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 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, 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 C.F.R. 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Ralph A. Dowell
Dowell & Dowell, P.C.
1215 Jefferson Davis Highway Suite 309
Arlington, Virginia 22202
(703)415-2555

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Director's Office
Group 3700

Paper No. 7

Shawn Hunter
BRACEWELL & PATTERSON, L.L.P.
P. O. Box 61389
Houston, TX 77208-1389

In re Application of
ARMSTRONG, JOHN TAYLOR
Application No.: 10/189,046
Filed: July 02, 2002

DECISION ON PETITION

This is a decision on petitioner's request filed July 19, 2004 to review the holding of abandonment, mailed June 21, 2004 for failure to respond to the Office action of November 7, 2003.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated February 12, 2004. Furthermore, a review of the file indicates that the original response is in the file with a mailroom stamp date of February 12, 2004.

In view of the above, the Notice of Abandonment mailed June 21, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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Paper No. 6

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Vincenzo Tomarchio et al	:	
Application No. 10/189,062	:	DECISION GRANTING PETITION
Filed: July 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CM2581M&	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice mailed August 20, 2002, which set a two month period for reply. No extensions of time having been received, the date of abandonment of this application is October 17, 2002. A Notice of Abandonment was mailed on December 30, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of August 20, 2002 is accepted as having been unintentionally delayed.

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

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

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

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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Paper No. 5

GLENN PATENT GROUP
3475 Edison Way
Suite L
Menlo Park, CA 94025

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FEB 0 4 2004

Technology Center 2100

In re Application of David C. PLATT Application No. 10/189,079 Filed: July 2, 2002 For: CRYPTOGRAPHICALLY SIGNED FILESYSTEM	: : : : :	DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed January 13, 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 communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: HICKMAN PALERMO TRUONG & BECKER LLP
1600 Willow Street
San Jose, CA 95125-5106

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
Darren Kady	:	
Application No. 10/189,085	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. GC-479	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on January 27, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed October 19, 2005.

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

The Change of Correspondence Address filed January 27, 2006, has been made of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD H17
CINCINNATI, OH 45215

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OFFICE OF PETITIONS

In re Application of :
Jeffrey Allen Conner, et. al. :
Application No. 10/189,087 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. 13DV-12779-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 15, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed October 26, 2005. A Notice of Abandonment was mailed on March 1, 2006.

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. In accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. In the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, 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 will be directed solely to the address of record until otherwise instructed.

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

The Office also acknowledges receipt of $300 for payment of the publication fee and $15 for five (5) advance order soft copies filed on January 9, 2006.

This application file is being referred to the Office of Publications to be processed 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

cc: Andrew L. Oltmans, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

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LAM RESEARCH CORPORATION
4650 CUSHING PARKWAY CA-1
FREMONT CA 94538

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Fanglo Hao
Application No. 10/189,111
Filed: July 3, 2002
Attorney Docket No. P846

This is a decision on the petition filed November 12, 2004 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 September 22, 2004 for failure to timely pay the issue fee on or before September 21, 2004. Accordingly, a Notice of Abandonment was mailed October 27, 2004.

Effective October 1, 2004, the issue fee for a large entity was set at $1370.00 not $1315.00 as was submitted with the instant petition. Therefore, per petitioner's authorization, deposit account no. 50-2284 has been charged in the amount of $55.00. 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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OFFICE OF PETITIONS

In re Patent No. 6,899,036 :
Issued: May 31, 2005 :
Application No. 10/189,144 : DECISION REGARDING PTA
Filed: July 2, 2002 :
Atty. Dkt. No.: 580065.420C1 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed July 22, 2005.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 6,899,036 on May 31, 2005. The patent issued with a PTA of 62 days. The instant application for PTA was timely filed July 22, 2005. Applicants argue that the adjustment of 242 days was wrongfully reduced 120 days in connection with applicants' submission on July 1, 2004.

Review of the application history reveals that an overall adjustment of 242 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1), an adjustment of 31 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. A further adjustment of 211 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(4) for failure to issue the patent within four months of receipt of the issue fee payment.

The adjustment of 242 days is reduced a total of 76 days for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing).

The adjustment of 242 days is reduced 60 days in accordance with 37 CFR 1.704(b). The reduction began January 4, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended March 3, 2004, the date a response was filed.

The adjustment of 242 days is further reduced 16 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS submitted March 19, 2004. The reduction began March 4, 2004, the day after the date that the initial response was filed, and ended March 19, 2004, the date that the supplemental response (i.e., IDS) was filed.

Applicants argue that the reduction of 120 days in connection with the paper filed July 1, 2004 is in error. Applicants submitted an IDS was submitted on November 4, 2002 and on March 19, 2004. Applicants argue that the paper submitted July 1, 2004 was a request to have the examiner initial applicants' PTO-SB 1449 forms.

As applicants did not have an opportunity to request that the examiner initial the PTO-SB 1449 submitted March 19, 2004 prior to the mailing of the Notice of Allowance on April 5, 2004, the request submitted July 1, 2004 in this instance is not deemed a failure by applicants to engage in reasonable efforts to conclude prosecution (or processing).

Therefore, the adjustment of 242 days is properly reduced 76 days for applicants' failure to engage in reasonable efforts to conclude prosecution, resulting in an overall PTA of 166 days.

Receipt is hereby acknowledged of the required application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 166 days.

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

Kery Fries

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

Enclosure: Draft Certificate of Correction

Day : Monday
Date: 9/26/2005

PALM INTRANET

Time: 12:04:38

PTA Calculations for Application: 10/189144			
Application Filing Date:	07/02/2002	PTO Delay (PTO):	242
Issue Date of Patent:	05/31/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	180
Post-Issue Petitions:	0	Total PTA (days):	166
PTO Delay Adjustment:	104		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	09/26/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	104		
39	05/31/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	211		35
38	05/05/2005	RECEIPT INTO PUBS			
37	05/05/2005	DISPATCH TO FDC			
36	05/05/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	07/01/2004	ISSUE FEE PAYMENT VERIFIED			
34	04/05/2005	RECEIPT INTO PUBS			
33	03/31/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
32	03/09/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
31	07/01/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
28	02/08/2005	RECEIPT INTO PUBS			
26	07/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	33
25	07/01/2004	ISSUE FEE PAYMENT RECEIVED			
24	06/17/2004	RECEIPT INTO PUBS			
23	04/26/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
22	04/05/2004	MAIL NOTICE OF ALLOWANCE			
21	04/01/2004	ISSUE REVISION COMPLETED			
20	04/01/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	04/01/2004	NOTICE OF ALLOWABILITY			
18	03/17/2004	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

17	03/03/2004	FILED		0	15
16	03/17/2004	DATE FORWARDED TO EXAMINER			
15	03/03/2004	RESPONSE AFTER NON-FINAL ACTION		60	12
14	03/03/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	11/14/2003	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
12	10/03/2003	MAIL NON-FINAL REJECTION	31		-1
11	09/25/2003	NON-FINAL REJECTION			
10	11/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	10/01/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/18/2002	APPLICATION DISPATCHED FROM OIPE			
6	10/17/2002	APPLICATION IS NOW COMPLETE			
5	10/01/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
4	10/01/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	08/01/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	07/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/02/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0651-0032
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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2540.00

Complete if Known	
Application Number	10/189156
Filing Date	7/2/2002
First Named Inventor	Brittan et al
Examiner Name	
Art Unit	
Attorney Docket No.	30004697-4

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 08-2025 Deposit Account Name: Hewlett-Packard

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____ =	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ 3 or HP =	_____ x	_____ =	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____ =	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Petition fee and 4 year Maintenance fee	2540.00

SUBMITTED BY

Signature	DMGilbert	Registration No. (Attorney/Agent) 27,196	Telephone 408-447-4447
Name (Print/Type)	Douglas M. Gilbert		Date June 12, 2008

This collection of information is required by 37 CFR 1.136. 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 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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)
6708153	2004-03-16	10189156	2002-07-02	30004697-4

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
● 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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	DM Gilbert	Date (YYYY-MM-DD)	2007-06-12
Name	Douglas M Gilbert	Registration Number	27196

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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

LEV INTELLECTUAL PROPERTY
CONSULTING
4677 MICHIGAN BOULEVARD
YOUNGSTOWN, OH 44505

COPY MAILED
JUN 3 0 2006
OFFICE OF PETITIONS

In re Application of

Nigam, et al. :

Application No. 10/189,160

: DECISION ON PETITION

Filed: July 3, 2002

:

Attorney Docket No. 0205-002

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2005, 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 final Office action mailed February 28, 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 May 29, 2005. A Notice of Abandonment was mailed on September 9, 2005.

Examiner Shewareged has determined that the amendment filed June 16, 2006, places the application in condition for allowance.

The request for an extension of time filed December 14, 2005, is noted. However; the request was made outside the maximum statutory period set for reply and cannot be granted. The amount of $510.00 will be refunded, in due course.

The application is being directed to Technology Center 1700, GAU 1774for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 24, 2006

Patent No. : 7,041,333 B2
Ser. No. : 10/189180
Inventor(s) : Chang, et al.
Issued : May 9, 2006
Title : **METHOD OF AND APPARATUS FOR MANUFACTURING OPTICAL DISC**
Docket No. : 1293.1422

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.

Comparison of the patent in column 6, line 42, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

CBN/eme

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/8/08

Paper No.: —

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/189189 Patent No: 7357927 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

1646
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE 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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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

Mail Date: 04/21/2010

Applicant	: Guo-Liang Yu	: DECISION ON REQUEST FOR
Patent Number	: 7357927	: RECALCULATION of PATENT
Issue Date	: 04/15/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/189,189	: OF WYETH
Filed	: 07/05/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
HENRY W. OLIVER BUILDING
535 SMITHFIELD STREET
PITTSBURGH PA 15222

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OFFICE OF PETITIONS

In re Application of	:	
John M. Eddington et al	:	
Application No. 10/189,193	:	DECISION GRANTING PETITION
Filed: July 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
1533.3590000/MAC/ALS	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 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 August 29, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DARBY & DARBY P.C.
Post Office Box 5257
New York, NY 10150-5257

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DEC 1 0 2004
OFFICE OF PETITIONS

In re Patent No. 6,770,988 :
Issue Date: August 33, 2004 :
Application No. 10/189,203 : ON PETITION
Filed: July 2, 2002 :
Docket No. 9492/1K962US1 :

This is a decision on the petition under 37 C.F.R. § 1.183 to waive the requirements of 37 C.F.R. § 3.81(a), filed November 12, 2004, requesting waiver of the rules to permit the correct name of the assignee to be provided after issuance of the above-referenced patent.

Petitioner requests issuance of a certificate of correction of assignee data in the name of "ADVANCED MOTION TECHNOLOGIES LLC." The Office will issue a certificate of correction to correct an error on the part of an applicant in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect[1]. The Office will issue a certificate of correction in such instances provided the required petition fee and certificate of correction fee are paid.

The instant petition has been reviewed and found in compliance with current Office procedure for issuance of a certificate of correction. Accordingly, the instant petition is hereby **GRANTED**.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[1] See, 35 USC 255, 37 CFR 1.323, and MPEP 1481.

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WASHINGTON, D.C. 20231
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Paper No. 5

Howard C. Lee
NORRIS McLAUGHLIN & MARCUS
30th Floor
220 East 42nd Street
New York NY 10017

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of
Fischer, et al.
Application No. 10/189,236
Filed: July 3, 2002
Attorney Docket No. Bayer 9634.2-HCL
For: 1-H-3-ARYLPIRROLIDINE-2,
4-DIONE DERIVATIVES

DECISION GRANTING
PETITION

This is a decision on the petition, filed October 11, 2002 (certificate of mailing date October 8, 2002), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 30, 2002.

The application was deposited on July 3, 2002. On August 30, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 6, 19, and 20 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 6, 19, and 20 be accorded a filing date of July 3, 2002 on the basis that the entire specification, including the allegedly missing pages, was received in the Patent and Trademark Office (PTO) on July 3, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing July 3, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 259 pages of specification. A review of the application file reveals that there are only 256 pages present. Pages 6, 19, and 20 are missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing pages 6, 19, and 20, was filed on July 3, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account, no. 14-1263.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 3, 2002**, using the copy of pages 6, 19, and 20 supplied with the petition.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 13 2004

OFFICE OF PETITIONS

LAW OFFICES OF DAVID PAI
1001 FOURTH AVENUE, SUITE 3200
SEATTLE WA 98154

In re Application of	:	
Le Lu et al	:	
Application No. 10/189,243	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No. 033793.0009.UTL1	:	

This is a decision on the petition under 37 CFR 1.182, filed March 24, 2004, to change the order of the inventors name.

The petition is **Granted**.

A corrected Filing Receipt with the desired name change accompanies this decision on petition.

This application is being referred to Technology Center AU 2874.

Karen Creasy

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

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SANDRA BEAUCHESNE
Ericsson Canada Inc.
Patent Department (LMC/IP)
8400 Decarie Blvd.
Town Mount Royal QC H4P 2N2 CA CANADA

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APR 2 7 2007

OFFICE OF PETITIONS

In re Application of
Gourraud et al.
Application No. 10/189,250
Filed: July 5, 2002
Title: Service Providing Mechanism

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 26, 2007.

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

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of September 16, 2005. An amendment was filed on January 16, 2006 . In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on January 26, 2006 which set a reply period of one month. A reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on February 27,2006. A Notice of Abandonment was mailed on February 8, 2007.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed January 16, 2006 was never received. Petitioner states a search of the file jacket and docket records confirms the Office Communication was not received. In support of petitioner's contention, a copy of the docket records has been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 2151 for re-mailing of the Notice of Non Compliant Amendment to the correspondence address of record. The extendable one month time period for reply will be set to run from the mailing date of the new Office Communication.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of

Patrick Pirim

Application No. 10/189,281

Filed: July 3, 2002

Attorney Docket No. 20046H-00301US

: DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed October 2, 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 January 11, 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 April 12, 2006. A Notice of Abandonment was mailed on July 11, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on October 2, 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

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Paper 7

KOLISCH HARTWELL DICKINSON
MCCORMACK & HEUSER
J DAVID FULMER
520 S W YAMHILL STREET SUITE 200
PORTLAND OR 97204

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MAY 2 7 2004
OFFICE OF PETITIONS

In re Application of
Owen et al.
Application No.10/189,298
Filed: July 3, 2002
Attorney Docket No. SKW 301B
Title of Invention: VEHICLE-MOUNTABLE, SUSPENSION MONITORING SYSTEM

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed October 10, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on August 7, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 8, 2002. A Notice of Abandonment was mailed on February 27, 2004.

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

The Office acknowledges receipt of the declaration, filing fee, surcharge fee and preliminary amendment submitted with the instant petition.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/189302			

EXAMINER	
ART UNIT	PAPER NUMBER
1646	

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted for obe drawings

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Yvonne Eyler
YVONNE EYLER, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

OIPE JC119
OCT 2 5 2002
PATENT & TRADEMARK OFFICE

PATENT
ATTORNEY DOCKET NO. 01942-00012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Hermann Sailer and Franz Weber	)	Examiner:
Serial No.: 10/189,302	)	Art Unit: 1646
Filed: July 2, 2002	)	
Title: PHARMACEUTICAL COMPOSITION	)	

RECEIVED
OCT 3 1 2002
TECH CENTER 1600/2900

Assistant Commissioner for Patents
Washington, D.C. 20231

granted EOK 3/1/02

PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER RULE 1.84(a)(2) and (b)(1)

Applicants submit herewith formal drawings of Figures 1-5. Figure 2 is a color photograph. In accordance with Rule 1.84(a)(2) and (b)(1), Applicants submit herewith three sets of Figure 2, as well as the required black and white photocopy of Figure 2. The color photograph is the only practical medium for showing the details present in Figure 2.

Figure 3 is a black and white drawing, and therefore only one copy is being submitted.

An amendment to the specification as required by 37 C.F.R. § 1.83(a)(2)(iv) accompanies this petition. Applicant requests that these photographs be accepted.

The requisite fee of $130.00 should be charged to our Deposit Account No. 19-0733.

Respectfully submitted,

Dated: October 25, 2002

By _____

John P. Iwanicki, Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 227-7111

10/30/2002 TBESHAH1 00000075 190733 10189302
01 FC:1460 130.00 CH

USSN 10/189,302
Express Mail Receipt No. EV 066773840 US

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 28 2003

OFFICE OF PETITIONS

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINES ROAD
CRANBURY NJ 08512

In re Application of
Bender & Pirolo
Application No.: 10/189,306
Filed: July 3, 2002
Attorney Docket No.: RD 01031
For: METHOD FOR TREATING AN ANIMAL CARCASS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 13, 2002 (certificate of mailing date November 8, 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 July 3, 2002 without an executed oath or declaration. Accordingly, on August 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on November 13, 2002 (certificate of mailing date November 8, 2002), a petition for a two month extension of time and required fee, the surcharge, filing fees, and the instant petition and required petition fee were filed. A declaration of facts of Anna P. Summers, an administrative assistant in the intellectual property group of the company in interest, accompanied the petition. Ms. Summers explains that she mailed a copy of the application and a declaration and power of attorney to the non-signing inventor, Mr. Pirolo, on two occasions. The first mailing was returned and marked "COMPANY OR PERSON UNKNOWN, NOT DELIVERED." The second mailing was "RETURNED TO SENDER UNCLAIMED."

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicant has failed to establish that the non-signing inventor has 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 inventor be provided with a complete copy of the application as filed. Ms. Summers' declaration indicates that two mailings to Mr. Pirolo were returned to sender. This fact alone establishes neither diligence in trying to find the missing inventor, nor the inventor's refusal by conduct to join in the filing of the application.

If petitioner is alleging that the non-signing inventor cannot be located, other attempts to reach him 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 inventor 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.

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. Can petitioner verify that Mr. Pirolo still resides at 2136 Pacific Avenue, Tacoma, Washington 98402? If he still resides at the Tacoma address, then the fact that he did not claim the second mailing could be significant. However, the fact that the first mailing was marked, "COMPANY OR PERSON UNKNOWN, NOT DELIVERED," indicates that Mr. Pirolo no longer lives at that address.

If he has moved, a complete copy of the application, including specification, claims and drawings, and the declaration should be mailed to the inventor's new last known address with a request that he 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. 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.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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FEB 2 8 2003
OFFICE OF PETITIONS

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINES ROAD
CRANBURY NJ 08512

In re Application of
Bender & Pirolo
Application No.: 10/189,306
Filed: July 3, 2002
Attorney Docket No.: RD 01031
For: METHOD FOR TREATING AN ANIMAL CARCASS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

RECEIVED
MAY 0 1 2003
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed November 13, 2002 (certificate of mailing date November 8, 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 July 3, 2002 without an executed oath or declaration. Accordingly, on August 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on November 13, 2002 (certificate of mailing date November 8, 2002), a petition for a two month extension of time and required fee, the surcharge, filing fees, and the instant petition and required petition fee were filed. A declaration of facts of Anna P. Summers, an administrative assistant in the intellectual property group of the company in interest, accompanied the petition. Ms. Summers explains that she mailed a copy of the application and a declaration and power of attorney to the non-signing inventor, Mr. Pirolo, on two occasions. The first mailing was returned and marked "COMPANY OR PERSON UNKNOWN, NOT DELIVERED." The second mailing was "RETURNED TO SENDER UNCLAIMED."

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

DOCKETED 3/4/03

4/28/03 Request for reconsideration on filing Declaration w/o signature due USPT

As to item (1), applicant has failed to establish that the non-signing inventor has 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 inventor be provided with a complete copy of the application as filed. Ms. Summers' declaration indicates that two mailings to Mr. Pirolo were returned to sender. This fact alone establishes neither diligence in trying to find the missing inventor, nor the inventor's refusal by conduct to join in the filing of the application.

If petitioner is alleging that the non-signing inventor cannot be located, other attempts to reach him 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 inventor 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.

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. Can petitioner verify that Mr. Pirolo still resides at 2136 Pacific Avenue, Tacoma, Washington 98402? If he still resides at the Tacoma address, then the fact that he did not claim the second mailing could be significant. However, the fact that the first mailing was marked, "COMPANY OR PERSON UNKNOWN, NOT DELIVERED," indicates that Mr. Pirolo no longer lives at that address.

If he has moved, a complete copy of the application, including specification, claims and drawings, and the declaration should be mailed to the inventor's new last known address with a request that he 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. 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.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

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MAY 19 2003

OFFICE OF PETITIONS

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINES ROAD
CRANBURY NJ 08512

In re Application of
Bender & Pirolo
Application No.: 10/189,306
Filed: July 3, 2002
Attorney Docket No.: RD 01031
For: METHOD FOR TREATING AN ANIMAL CARCASS

DECISION REFUSING JOINDER

This is a decision on the request for reconsideration of petition under 37 CFR 1.47(a), filed April 28, 2003.

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 July 3, 2002 without an executed oath or declaration. Accordingly, on August 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing. Applicants' petition under 37 CFR 1.47(a), filed November 13, 2002 (certificate of mailing date November 8, 2002), was dismissed on February 28, 2003 for failure to show that the non-signing inventor, Robert A. Pirolo, refused to join in the filing of the application or could not be reached.

In response, the present reconsideration petition was filed on April 28, 2003. The petition was accompanied by a declaration executed by Inventor Pirolo. Unfortunately, the declaration is not in compliance with 37 CFR 1.63 and 1.64. The Declaration executed by Mr. Pirolo is not the same declaration that the other joint inventor executed. The Declaration executed by Mr. Pirolo must set forth the entire inventive entity in order to ensure that Mr. Pirolo is aware of the other named inventor of the subject matter. See 37 CFR 1.63. For this reason, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is still required. See MPEP 409.03(a). Petitioner should mail a copy of the declaration executed by the other joint inventor to Mr. Pirolo and request that he sign the declaration.

It is noted that petitioner has paid a second Rule 47 petition fee. Only one is required. The $130.00 petition fee submitted on April 28, 2003 will be credited to deposit account no. 18-1169.

The power of attorney filed on April 28, 2003 cannot be entered at this time. Office records show no recordation of an assignment agreement between the inventors and Rhodia, Inc. The copy of the indemnification agreement submitted with the power of attorney is not an assignment agreement or an employment contract that shows the inventors gave Rhodia, Inc. assignee rights. Furthermore, it is not apparent that an assistant secretary, the individual who signed the power of attorney, has the authority to bind Rhodia, Inc..

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 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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINES ROAD
CRANBURY NJ 08512

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OFFICE OF PETITIONS

In re Application of
Bender & Pirolo
Application No.: 10/189,306
Filed: July 3, 2002
Attorney Docket No.: RD 01031
For: METHOD FOR TREATING AN ANIMAL CARCASS

RD 01031

DECISION REFUSING JOINDER

RECEIVED
JUL 18 2003
OFFICE OF PETITIONS

This is a decision on the request for reconsideration of petition under 37 CFR 1.47(a), filed April 28, 2003.

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 July 3, 2002 without an executed oath or declaration. Accordingly, on August 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing. Applicants' petition under 37 CFR 1.47(a), filed November 13, 2002 (certificate of mailing date November 8, 2002), was dismissed on February 28, 2003 for failure to show that the non-signing inventor, Robert A. Pirolo, refused to join in the filing of the application or could not be reached.

In response, the present reconsideration petition was filed on April 28, 2003. The petition was accompanied by a declaration executed by Inventor Pirolo. Unfortunately, the declaration is not in compliance with 37 CFR 1.63 and 1.64. The Declaration executed by Mr. Pirolo is not the same declaration that the other joint inventor executed. The Declaration executed by Mr. Pirolo must set forth the entire inventive entity in order to ensure that Mr. Pirolo is aware of the other named inventor of the subject matter. See 37 CFR 1.63. For this reason, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is still required. See MPEP 409.03(a). Petitioner should mail a copy of the declaration executed by the other joint inventor to Mr. Pirolo and request that he sign the declaration.

It is noted that petitioner has paid a second Rule 47 petition fee. Only one is required. The $130.00 petition fee submitted on April 28, 2003 will be credited to deposit account no. 18-1169.

DU 5/23/03

7/19/03 Respond to decision on Request for reconsideration of Petition

The power of attorney filed on April 28, 2003 cannot be entered at this time. Office records show no recordation of an assignment agreement between the inventors and Rhodia, Inc. The copy of the indemnification agreement submitted with the power of attorney is not an assignment agreement or an employment contract that shows the inventors gave Rhodia, Inc. assignee rights. Furthermore, it is not apparent that an assistant secretary, the individual who signed the power of attorney, has the authority to bind Rhodia, Inc..

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 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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINS ROAD
CRANBURY NJ 08512

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Bender & Pirolo
Application No.: 10/189,306
Filed: July 3, 2002
Attorney Docket No.: RD 01031
For: METHOD FOR TREATING AN ANIMAL CARCASS

DECISION NOTING JOINDER & PETITION UNDER 37 CFR 1.137(a) DISMISSED AS MOOT

Papers filed on July 17, 2003 (certificate of mailing date July 15, 2003) in reply to "Decision Refusing Joinder" mailed on May 19, 2003, included a Declaration signed by the previously nonsigning inventor, Pirolo, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Technology Center 1700 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

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

Cathryn Campbell
CAMPBELL & FLORES LLP
4370 La Jolla Village Drive 7th Floor
San Diego CA 92122

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JUN 2 1 2004
OFFICE OF PETITIONS

Applicant: Quin et al.
Appl. No.: 10/189,327
Filing Date: July 2, 2002
Title: COMMON LIGAND UNIVERSAL ENZYME ASSAY AND COMPOSITIONS FOR USE THEREIN
Attorney Docket No.: 66692-055
Pub. No.: US 2003/0228621 A1
Pub. Date: December 11, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on February 11, 2003.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains errors in the chemical formula in claims 19, 20, 23, 24, 27, 28, 30, 43 and 50.

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

The typographical errors in the chemical formula in claims 19, 20, 23, 24, 27, 28, 30, 43 and 50 identified by applicant are not material mistakes as required by 37 CFR 1.221(b). The mistakes are not material mistakes as required by 37 CFR 1.221(b) because the errors are not readily apparent from the Office records. The text of the chemical formula in the claims as originally filed by Applicant are of a very poor quality and are difficult to read, as the text is extremely tiny.

Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process.

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

See 37 CFR 1.52. Applicant should be very careful when filing amendments to the application to avoid adding new matter, as portions of the claims in the application as filed are not legible.

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

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

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

By facsimile: 703-872-9306

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

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

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OFFICE OF PETITIONS

JOHN E. MILLER
CALFEE HALTER & GRISWOLD, LLP
1400 MCDONALD INVESTMENT CENTER
800 SUPERIOR AVENUE
CLEVELAND, OH 44114

In re Patent No. 6,982,112	:	
Issue Date: January 3, 2006	:	
Application No. 10/189,329	:	ON PETITION
Filed: May 12, 2006	:	
Patentee(s): Aubert Y Coran.	:	

This is a decision on the petition filed May 12, 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

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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WASHINGTON, D.C. 20231
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Paper No. 6

BANNER & WITCOFF
28 STATE STREET
28TH FLOOR
BOSTON, MA 02109-1775

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MAY 12 2003

OFFICE OF PETITIONS

In re Application of :
Melinda Ann Mabry et al :
Application No. 10/189,332 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. 625163CIPCON2 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 3, 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 November 4, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,970.00 extension of time submitted on April 8, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 1714 for examination in due course.

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 5-12-03 | 2 Serial/Patent # 10/189,332

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	3	4/8/03	$ 1970.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1970.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 19--0733

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

unnecessary

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Wan Laymon TITLE: Pet. Exam.

SIGNATURE: Wan Laymon PHONE:

OFFICE:

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Dawn Kholl DATE: 5/12/03

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)

IFW
2836

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0022U-US
Application Serial No.: 10/189,338
Filed: July 2, 2002
Title: Pathway Arrangement
Inventor: ANTHONY, et al.
Group Art Unit: 2836
Examiner: Benenson

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
PATENT TRADEMARK OFFICE

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

Printed: August 16, 2004 (3:45pm)
Y:\Clients\X2YA\X2YA0022\X2YA0022U-US\Drafts\Transmittal_Letter_040816.wpd

8-13-04 RB

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OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004

COPY MAILED

AUG 10 2004

OFFICE OF PETITIONS

In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

DECISION ON PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010UUS_040813 RB

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

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

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

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

Filed: 9/9/2002

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APR 2 2 2004
OPLA

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

BEST AVAILABLE COPY

IFW
2836

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Suite 1001
Arlington, VA 22202

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AUG 17 2004
PATENT & TRADEMARK OFFICE

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

TRANSMITTAL LETTER

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0023U-US
Application Serial No.: 10/189,339
Filed: July 2, 2002
Title: Arrangement for Energy Conditioning
Inventor: ANTHONY et al.
Group Art Unit: Unknown
Examiner: Unknown

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

31518
PATENT TRADEMARK OFFICE

Printed: August 16, 2004 (5:34pm)
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8-13-04 RB

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

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AUG 17 2004
PATENT & TRADEMARK OFFICE

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004

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AUG 10 2004

OFFICE OF PETITIONS

In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

DECISION ON PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010UUS_040813 RB

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

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

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

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

Filed: 9/9/2002

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OPLA

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
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10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
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10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
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10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED
AUG 19 2003
OFFICE OF PETITIONS

In re Application of	:
Anthony et al.	: DECISION ON PETITION
Application No. 10/189,339	: UNDER 37 CFR 1.78(a)(3)
Filed: 2 July, 2002	: AND 37 CFR 1.78(a)(6)
Atty Docket No. X2YA0023U-US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 26 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of prior-filed nonprovisional applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed on 26 June, 2003.

The petition is **DISMISSED**.

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

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

---

[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 present application was filed on 2 July, 2002, and was pending at the time of filing of the instant petition.

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

As to the benefit claim under 37 CFR 1.78(a)(6):

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

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

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

A reference to add the prior-filed applications on page one in the first sentence of the specification has been included in an amendment filed on 26 June, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioners' 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 de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioners may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of Douglas I. Wood.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SOLANA BEACH CA 92075

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OFFICE OF PETITIONS

In re Application of
HAHN, Gary S. et al.
Application No. 10/189,344
Filed: July 03, 2002
Attorney Docket No. **Sensory 0011.CON4**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 06, 2006.

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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, transferred to the client, does not meet any of the conditions set forth in 37 CFR 10.40. See PTO/SB/83 (11-08).

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

cc: **OFFICE OF KYLE FLETCHER**
806 WEST 5TH STREET, APARTMENT 410
CHARLOTTE, NC 28202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:
Akihiko Shirakawa et al	:
Application No. 10/189,371	: DECISION GRANTING PETITION
Filed: July 3, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q65353	:

This is a decision on the petition, filed May 3, 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 24, 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 1754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\189371

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

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OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA, VA 22320

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AUG 2 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masashi Kitabayashi et al :
Application No. 10/189,387 :
Filed: July 08, 2002 :
Attorney Docket No. 113187 :

This is a decision on the petition, filed August 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 11, 2007

Patent No. : 7,118,908 B2
Inventor(s) : Jan, et al.
Issued : October 10, 2006
Title : **ON-SPOT SELECTIVELY ACTIVATED HYDROPHOBIC SLIDE AND PREPARATION THEREOF**
Docket No. : 26232/168587

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

-

ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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JUL 06 2007

OFFICE OF PETITIONS

In re Patent No. 7,118,908 :
Issue Date: 10-10-2006 :
Application No. 10/189,405 : ON PETITION
Filed: 07-08-2002 :
Attorney Docket No. 26232/168587 :

This is a decision on the petition filed April 6, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter 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) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMB

Paper No. 7

HOWSON AND HOWSON
Spring House Corporate Center
Box 457
Spring House, PA 19477

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JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Cowsert, et al. :
Application No. 10/189,429 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No.: RTS-0366 :

This decision is in response to the petition under 37 CFR 1.10(c), filed July 1, 2003, requesting that the above-identified application be accorded a filing date of July 3, 2002 instead of the presently accorded filing date of June 3, 2002.

Petitioner alleges that the application was deposited in Express Mail service July 3, 2002. In support, petitioner provided a copy of an Express Mail label bearing tracking number EV053177058US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of July 3, 2002.

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

No fee has been charged to petitioner's deposit account in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for correction of the filing date to July 3, 2002.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070416

DATE : April 16, 2007

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6,908,695

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:

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Matthew Smith **Art Unit** 2818

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 01,2007

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/189,494 Patent No.: 7184580 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

2624
Art Unit

Ok to enter
BMM
10/2/07

DOCKET NO.: IVPH-0083 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Laurence Hamid **Confirmation No.: 3828**

Patent No.: 7,184,580 B2 **Issued: February 27, 2007**

Application No.: 10/189,494 **Filing Date: July 8, 2002**

For: FINGERPRINT SCAR RECOGNITION METHOD AND APPARATUS

Commissioner for Patents
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR § 1.322 & 37 CFR § 1.323

It is respectfully requested that a Certificate of Correction be issued for the above-identified patent. The patent has **Thirty-Four** errors; **Two** of which occurred through the fault of the Patent and Trademark Office, and **Thirty-Two** errors were the fault of the applicant. Applicant's errors occurred in good faith and are of a clerical or typographical nature, or minor character, and are not believed to constitute new matter or require examination.

Enclosed herewith please find a completed Certificate of Correction form.

☒ Please charge Deposit Account No. 23-3050 in the amount of **$100.00**. (See 37 CFR § 1.20(a))

☐ A check in the amount of **$100.00** is attached.

☒ The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of the fees associated with this communication to Deposit Account No. 23-3050.

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

Paper No. 10

David S. Jordan
11024 MONTGOMERY NE #213
Albuquerque NM 87111

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APR 30 2004
OFFICE OF PETITIONS

In re Application of
Jordan & Jordan
Application No. 10/189,496
Filed: July 8, 2002
Attorney Docket No. N/A
For: CONDUIT LAYOUT TOOL

DECISION
ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to submit a timely reply to the non-final Office action mailed July 9, 2003, which set an extendable three (3) month period for reply. Petitioners submitted a request for one month extension of time and required fee and a change of correspondence address on October 2, 2003. However, the Office had no record of receiving a reply to the July 9, 2003 non-final amendment. Therefore, the application became abandoned on November 10, 2003.[1] A Notice of Abandonment was mailed on March 23, 2004.

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

Petitioners have provided evidence that their amendment was received in the Office on November

[1] Petitioners could have responded as late as November 11, 2003 because November 10 was a holiday and if a reply is filed on the first business day after a holiday or weekend, the Office considers it to be filed timely.

10, 2003. Petitioners acted as reasonable and prudent persons and retained evidence of timely mailing in the form of shipping information for the package, as well as the mailing label.

Why was the reply not matched with the application file?

A review of the mailing label reveals that petitioners sent the reply to "Customer Window Mail Stop Ex Parte Reexam." A reply to an Office action in an application that is **not** a reexamination application should not go to "Ex Parte Reexam." More importantly, there were no identifiers on the reply. The reply was simply identified as "CLAIMS."

Please include the application number, the filing date, the names of the inventors, and the title on all correspondence regarding this and any other application. The Office routinely discards mailing envelopes. If there are no identifiers on the actual correspondence, the correspondence cannot be matched to the correct application file.

For future reference, petitioners are reminded that a paper's filing date is the actual date of receipt in the Office There are only two ways to get Office to recognize a date other than the date of receipt: (1) Petitioners must provide a copy of the original document with an affixed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) or (2) Petitioners must provide a copy of a USPS Express Mail label showing a "date-in" the same as the desired date and a copy of the correspondence that contains a reference to the Express Mail receipt number (37 CFR 1.10). The Office treats USPS Express Mail differently from all other types of mail. The Office considers the deposit date of the correspondence in USPS Express Mail as equivalent to the filing date of the correspondence in the Office. Petitioners are officially apprised of the fact that the Office does not recognize FEDEX as the equivalent of USPS Express Mail.

Petitioners are encouraged to submit all future correspondence to the Office by USPS Express Mail OR by USPS first class mail with a certificate of mailing affixed to the correspondence. This will ensure petitioners will be able to maintain their date of deposit as their filing date if papers are lost or arrive at the Office late. Please keep in mind that certificate of mailing practice cannot be used for application filing date purposes.

The file is being returned to Technology Center 2800 for consideration of the reply filed on April 14, 2004.

Telephone inquiries concerning this matter may 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

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MAY 07 2003

OFFICE OF PETITIONS

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

In re Application of
Zoller et al.
Application No.10/189,507
Filed: July 8, 2002
Attorney Docket No. P 0291567
Title of Invention: EXPRESSION OF FUNCTIONAL HUMAN OLFACTORY CYCLIC NUCLEOTIDE GATED (CNG) CHANNEL IN RECOMBINANT HOST CELLS AND USE THEREOF IN CELL BASED ASSAYS TO IDENTIFY SMELL MODULATORS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

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

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on July 7, 2002, without an executed oath or declaration. Accordingly, on August 13, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 10, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted. In support of the petition, applicants submitted the declarations of Janice P. Brown and Sherry Dollins.

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

As to item (1), Rule 47 applicant has failed provide a clear record to illustrate a copy of the application papers were ever presented to inventor Adler. The declaration of Sherry Dollins indicates "patent documents" were submitted for Dr. Adler's review. A list has also been provided which indicates with regard to this application the declaration and power of attorney as well as assignment documents were presented for Dr. Adler's signature. However it is not clear that the application papers (specification, including claims, drawings, and oath or declaration) were presented. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Inventor Adler must be presented with the opportunity to sign the application papers before rule 47 status will be granted. If petitioner did indeed submit the application papers pursuant to MPEP 409.03, with the July 15, 2002 mailing, petitioner should present a signed statement alleging such facts. However if application papers (specification, including claims, drawings, and oath or declaration) were not presented to inventor Alder or his representative, rule 47 status can not be granted.

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

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

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JUN 1 3 2003

OFFICE OF PETITIONS

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

In re Application of
Mark Zoller, Xu Hong, Lena Staszewski, Bryan Moyer Alexy Pronin, Jon Elliot Adler, Guy Servant and Nicholas Callamaras
Application No.10/189,507
Filed: July 8, 2002
Attorney Docket No. P 0291567
Title of Invention: EXPRESSION OF FUNCTIONAL HUMAN OLFACTORY CYCLIC NUCLEOTIDE GATED (CNG) CHANNEL IN RECOMBINANT HOST CELLS AND USE THEREOF IN CELL BASED ASSAYS TO IDENTIFY SMELL MODULATORS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed June 5, 2003 under 37 CFR. §1.47(a).

Petitioner has shown that the non-signing inventor, Adler, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via Air Borne Express. Discussions with inventor Adler's representative confirmed a refusal to participate in the above-identified application . The non-signing inventor's failure to execute the application papers sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Charlema R. Grant

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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Jon Elliot Adler
1099 Turquoise Street, Apt 15
San Diego, CA 92109

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JUN 1 3 2003

OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xu Hong, Lena Staszewski, Bryan Moyer Alexy Pronin, Jon Elliot Adler, Guy Servant and Nicholas Callamaras
Application No.10/189,507
Filed: July 8, 2002
Attorney Docket No. P 0291567
Title of Invention: EXPRESSION OF FUNCTIONAL HUMAN OLFACTORY CYCLIC NUCLEOTIDE GATED (CNG) CHANNEL IN RECOMBINANT HOST CELLS AND USE THEREOF IN CELL BASED ASSAYS TO IDENTIFY SMELL MODULATORS

LETTER

Dear Mr. Adler:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Robin L. Teskin
Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean VA 22102

cc: Marilyn Mika Spencer
2044 First Avenue, Suite 200
San Diego, CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

Kilpatrick Stockton LLP
607 14th Street, N.W.
Washington, DC 20005

In re application of
Charles M. Chafer
Application No. 10/189,529 :
Filed: July 08, 2002 :
For: SPACE CRAFT AND METHODS FOR SPACE TRAVEL :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on August 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 A) above.

Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 09/28/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Martin D. Moynihan
C/o Anthony Castorina
2001 Jefferson Davis Highway, Suite 207
Arlington, VA 22202

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NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Nir Schechter	:	DECISION ON PETITION
Application No. 10/189,531	:	UNDER 37 CFR 1.137(b)
Filed: July 8, 2002	:	
Attorney Docket No. 27927	:	

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

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed June 2, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on September 3, 2004. A Notice of Abandonment was mailed on January 10, 2005.

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

The petition is **granted**.

This matter is being referred to Technology Center Art Unit 3635.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 26 2007
OFFICE OF PETITIONS

IAN F. BURNS & ASSOCIATES
P.O. BOX 71115
RENO, NV 89570

In re Application of
Gary Lord et al.
Application No. 10/189,579
Filed: July 8, 2002
Attorney Docket No. 004484.00012

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 22, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2005. A Notice of Abandonment was mailed January 9, 2006.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 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 July 25, 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 the firm of Ian F. Burns & Associates was counsel of record at the time of abandonment, the firm of Ian F. Burns & Associates should explain why this application became abandoned while it was under their control and what efforts the firm made to further reply of itself and with whom this matter was discussed outside of the firm of Ian F. Burns & Associates. 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), appointed attorneys and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the firm of Ian F. Burns & Associates, 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 2 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 then at the firm of Ian F. Burns & Associates 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).

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

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.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 9

Texas Instruments Incorporated
Mail Station 3999
PO Box 655474
Dallas, TX 75265

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of	:	
Paul R. Moehle et al.	:	
Application No. 10/189,611	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. TI-29283.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 27, 2003.

The application is being forwarded to Technology Center AU 1746.

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

Latrice Bond

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

510 32136451

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Pearne & Gordon
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

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SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of
Henry B. Mazorow
Application No. 09/788,210
Filed: February 16, 2001
For: Horizontal Directional Drilling in Wells

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed August 2, 2001.

The petition under 37 CFR 1.47(a) 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.

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

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

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

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

FACSIMILE TRANSMISSION RECORD / COVER SHEET

TO

Name: Brad Harris

Company or Firm: U.S. PTO

Facsimile Tel. No.: 1-703-746-4623

FROM

PEARNE &GORDON LLP
1801 East 9th Street
CLEVELAND, OHIO 44114-3108
(216) 579-1700

Name of Sender: Linda Ibbett, Secretary to Steven Solomon and John Murtaugh

COMMENTS

Date: September 29, 2005 Cleveland Time: 10:10 am

For: 6 pages(s), (including this page)

Client: SID File No.: 32136US2

This transmission was sent from

(216) 579-6073

If you have any problem with your reception please

telephone us at (216) 579-1700 and ask for: Linda Ibbett

The documents accompanying this facsimile transmission contain information from the law firm of Pearne & Gordon LLP which may be confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, any disclosure, copying, distribution or use of the contents of this transmitted information is prohibited. If you have received this transmission in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

Re: U.S. Patent Application Serial No. 10/189,637

Dear Mr. Harris:

In response to your telephone request this morning, enclosed are copies of the Decision According Status Under 37 CFR 1.47(a) and two copies of the Declaration and Power of Attorney Under Rule 1.47(a) (one copy is signed by inventor Paris E. Blair and other copy is signed by inventor Henry B. Mazorow). If you need any further information in order to get this patent application to proceed to issuance, please let us know. Thank you for your assistance in this matter.

Very truly yours,

Linda Ibbett

Linda Ibbett

Encs. (5 Pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER NORTON
POST OFFICE BOX 62
NORTHVILLE, MI 48167

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter Norton	:	
Application No. 10/189,650	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. P-424	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2006, 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 June 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 16, 2005.

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

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: PTOL-85b

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 06/15/2005

Peter Norton
Post Office Box 62
Northville, MI 48167

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/189,650	07/03/2002	Peter Norton	P-424	2271

TITLE OF INVENTION: ANGULAR RATE SENSOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$0	$700	09/15/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
MULLEN, THOMAS J	2632	340-444000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

SID 301 264-1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

U.S. PTO
10/189651
07/03/02

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OFFICE OF PETITIONS

Pearne & Gordon
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

In re Application of
Henry B. Mazorow
Application No. 09/788,210
Filed: February 16, 2001
For: Horizontal Directional Drilling in Wells

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed August 2, 2001.

The petition under 37 CFR 1.47(a) 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.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

SCHNADER HARRISON SEGAL &
LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Kao et al.	:	
Application No. 10/189,653	:	
Filed: July 3, 2002	:	DECISION ON PETITION
Attorney Docket No.	:	
1222-R-01	:	

This is a decision on the Petition requesting that the application be accorded a filing date of July 3, 2002, including pages 5 and 6 of the specification.

The application was filed on July 3, 2002. However, on August 14, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), requiring a complete specification including at least one claim.

Petitioner argues, *inter alia*, that a complete specification of 6 pages, including one page of claims and one page of abstract, were included among papers filed initially, on July 3, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of a patent application of 6 pages of specification including claims and abstract, filed on July 3, 2002.

A review of the file reveals that a specification of 4 pages was received in the Office on July 3, 2002.

However, a review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of a patent application of 6 pages of specification including claims and abstract, filed on July 3, 2002. Petitioner has also re-submitted pages 5 (claims) and 6 (abstract) of the specification.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are

present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The petition is **granted**. The requirement to submit a complete specification as set forth in the Notice is vacated.

The copy of pages 5 (claims) and 6 (abstract) of the specification supplied on August 26, 2002, will be used for examination purposes.

No petition fee is required, and none has been charged.

The application will be returned to the Initial Patent Examination Division for further processing as a nonprovisional application with a filing date of July 3, 2002, using the original application papers and pages 5 (claims) and 6 (abstract) of the specification supplied on August 26, 2002. The Office record should reflect pages 5 (claims) and 6 (abstract) of the specification were present on filing.

Thereafter, the application will be forwarded to Technology Center AU 1615 for processing in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell for

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

Conferee: Christina Donnell, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER F. REGAN
ALLEN DYER DOPPELT MILBRATH
& GILCHRIST, P.A.
255 S. ORANGE AVENUE, SUITE 1401
ORLANDO, FL 32801

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SEP 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,890,971	:	
Issue Date: May 10, 2005	:	
Application No. 10/189,654	:	NOTICE
Filed: July 3, 2002	:	
Attorney Docket No. 57509		

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Robert J. Baran
Allergan, Inc.
Legal Department
2525 Dupont Drive
Irvine, CA 92612

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Cun-Jian Dong, et al.	:	
Application No. 10/189,676	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. 17514 (AP)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the non-final Office action of November 3, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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STEPHEN E. REVIS
11 BRENTHAVEN
AVON, CT 06001-3941

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Deliang Yang, et al. :
Application No. 10/189,696 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. C-2414 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on November 5, 2004.

Receipt is acknowledged of the Terminal Disclaimer filed with the instant petition.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/231,285.

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

The application matter is being referred to Technology Center 1700, Art Unit 1745 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Paper No. 6

GILSON WOO
19708 BALAN ROAD
ROWLAND HEIGHTS CA 91748

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DEC 03 2003

OFFICE OF PETITIONS

In re Application of
Gilson Woo
Application No. 10/189,697
Filed: July 3, 2002

ON PETITION

This is a decision on the petition filed November 17, 2003 under 37 CFR 1.137(a) to revive the above-identified application. The petition is being treated as a petition to withdraw the holding abandonment.

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

The application was held abandoned on July 2. 2003, for failure to timely reply to the non-Final office action mailed April 1, 2003. A three (3) month shortened statutory period for reply was set. Accordingly, a Notice of Abandonment was mailed on November 6, 2003.

Petitioner asserts that the response in the form of an amendment was timely filed by Express Mail on July 18, 2003. In support, petitioner has submitted a copy of a the US Postal Service Delivery Confirmation with USPTO date stamp of July 21, 2003 and self addressed itemized return receipt post card with USPTO date stamp of July 18, 2003. Additionally, the following were filed with the petition, copies of the transmittal form dated July 18, 2003, fee transmittal, canceled check #215 in the mount $310.00, statement claiming small entity status; four copies of a terminal disclaimer, 120 page reply to the April 1, 2003 non-Final office action, previously filed on July 18, 2003.

A search of the application file and the USPTO records does not reveal receipt of the reply however, the proof submitted complies with the requirements for withdrawing the holding of abandonment and thus substantiates the claim that the response was timely filed.

In view of the above, the holding of abandonment for failure to timely reply to the non-Final Office Action is being withdrawn. Accordingly, petitioner will receive a refund in the amount of $55 for the petition to revive.

The application file is being forwarded to Technology Center 3736 for appropriate action on the amendment filed July 18, 2003 and re-submitted with this petition on November 17, 2003.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 12

SHELDON & MAK
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA, CA 91101

COPY MAILED
APR 2 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Wayne Spears	:	
Application No. 10/189,702	:	NOTICE
Filed: July 3, 2002	:	
Attorney Docket No. 13954	:	

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©) 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 3679 fro consideration of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed Amendment.

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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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DEC 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,326,331	:	ON PETITION
Issue Date: February 5, 2008	:	
Application No. 10/189,736	:	
Filed: July 8, 2002	:	
Attorney Docket No. PET-2016	:	

This is a decision on the petition filed February 10, 2009, 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 to replace the name "Enitechnologies E Uffici Di Via" on the front page of the above-identified patent by way of certificate of correction with the name "EniTecologie SpA".

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.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Reel/Frame: 013383/0750 recorded on October 15, 2002, shows the name of the assignee in question to be "EniTechnologie SpA Laboratori e Uffici di Via Felice." Accordingly, since the assignment does not shows the name recorded as "EniTecnologie SpA" only, a certificate of correction as requested would not be proper.

Telephone inquiries concerning this decision on petition should be directed to undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
LingHsiao Wang	:	
Application No. 10/189,750	:	DECISION ON PETITION
Filed: July 3, 2002	:	TO WITHDRAW
Attorney Docket No. 71795/20591	:	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 24, 2005.

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 John Garred on behalf of all attorneys of record who are associated with customer No. 23380.

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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: LingHsiao Wang
10 Miners Trail
Irvine, CA 92620

cc: Richard Mitchell Marks & Clerk
280 Slater Street, Suite 1800
Ottawa, Ontario K1P 1C2

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/189,750	07/03/2002	LingHsiao Wang	71795/20591

CONFIRMATION NO. 3794

OC000000020178179

OC000000020178179

23380
TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Date Mailed: 08/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/24/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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1900 K STREET, N.W.
WASHINGTON, DC 20006

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Joun Ho Lee	:	
Application No. 10/189,769	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. 8733.682.00-US	:	

This is a decision on the petition under 37 CFR 1.173(b), filed May 17, 2005 and supplemented on May 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 17, 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 amendment submitted on March 17, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 8, 2005. 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 March 18, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and (2) the petition fee. Accordingly, the reply to the final Office action of September 17, 2004 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement

contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

This matter is being referred to Technology Center AU 2871 for processing of the RCE.

Wan Laymon

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Dong-seok Kang	:	DECISION ON PETITION TO
Application No. 10/189,782	:	WITHDRAW HOLDING OF
Filed: 8 July, 2002	:	ABANDONMENT
Attorney Docket No. Q70948	:	

This is a decision on the petition filed on 16 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Non-Complaint Amendment mailed on 6 July, 2005, which set a one (1) month shortened.

Petitioners assert that the Notice of Non-Compliant Amendment mailed on 6 July, 2005, was never received.

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

that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted verified statements from the practitioner, Christopher R. Lipp, stating that the Office communication was not received by the practitioner, and attesting to the fact that a search of the file jacket indicates that the Office action was not received. Copies of docket records for the above-identified application where the non-received Office action would have been entered had it been received and docketed are attached.

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

The petition is **GRANTED.**

The application file is being referred to Technology Center 2600 technical support staff for remailing of the Notice of Non-Compliant Amendment. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAR 29 2010

OFFICE OF PETITIONS

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

In re Application of	:	
Ireneusz J. IMIOLEK et al.	:	
Application No. 10/189,797	:	NOTICE
Patent No. 6,986,654	:	
Filed: July 03, 2002	:	
Attorney Docket No. **900122.457**		

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 Tredelle Jackson at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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JAN 12 2004

#9

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

In re Application of	:
Kousei Ikai et al	:
Serial No.: 10/189,804	: PETITION DECISION
Filed: July 8, 2002	:
Attorney Docket No.: 000721A	:

This is in response to the petition under 37 CFR 1.181, filed October 7, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on January 2, 2003, setting a three month shortened statutory period for reply. Applicants replied on April 28, 2003, including a request for a one month extension of time and fee therefor. A Notice of Abandonment was mailed to applicants on September 30, 2003, when the reply was not timely correlated with the file. The reply has now been correlated with the file. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/189,814	07/03/2002	Clifford S. Brust	L3C01 P-119A	3075

7590 05/14/2008

Frederick S. Burkhart
Van Dyke Gardner, Linn & Burkhart, LLP
2851 Charlevoix Drive, S.E., Suite 207
Post Office Box 888695
Grand Rapids, MI 49588-8695

EXAMINER
ARTHUR JEANGLAUD, GERTRUDE

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
05/14/2008	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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Frederick S. Burkhart
Van Dyke Gardner, Linn & Burkhart, LLP
2851 Charlevoix Drive, S.E., Suite 207
Post Office Box 888695
Grand Rapids, MI 49588-8695

In re Application of Clifford S. Brust et al Application No. 10/189,814 Filed: July 3, 2002 Attorney Docket No.: L3C01 P-119A For: **SYSTEM AND METHOD FOR PRODUCING FLIGHT PATHWAY**	: : : : : : :	**DECISION ON PETITION UNDER 37 CFR §1.181**

This is a decision on applicants' petition under 37 CFR 1.181 filed December 28, 2007 requesting withdrawal of the finality of the Office action mailed October 31, 2007.

The petition is **DISMISSED as MOOT.**

The record reflects that on October 31, 2007 a final rejection was mailed with a new rejection of claim 30. The rejection of claim 30 was Kubbat in view of Fischer et al. in the non-final office action of April 2, 2007, and this was changed to Kubbat in view of Rennie in the Final rejection.

In the petition filed December 28, 2007 applicant argues that claim 30 was not amended in scope. The term "symbol" was changed to "at least one of the symbols" and the term "first and second" was deleted to provide proper antecedent basis for all claim terms. It is agreed that these amendments did not significantly change the scope of the invention. Further, the examiners rejection introduces the new reference, Rennie, by stating that "Kubbat disclose all but fail to specifically disclose that the symbols showing boundaries around the selected flight path having associated therewith an indicator of the direction through which the aircraft should pass through the boundary depicted." This subject matter of claim 30 was not amended, thus it appears that Rennie was used to reject this subject matter and the new grounds of rejection was not based on the subject matter that was changed to provide proper antecedent bases.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A further review of the record reveals that applicants filed, concurrently with the instant petition, an amendment.under 37 CFR 1.116. Subsequent to the amendment and petition, a Request for Continued Examination (RCE) was filed on March 28, 2008. Accordingly, the amendment was entered. Since the application is no longer under "final" status, applicants' request for withdrawal of the final rejection is moot.

The application will be forwarded to the examiner of record for consideration of the amendment filed December 28, 2007.

Summary: The petition is **DISMISSED as MOOT.**

Any questions regarding this letter should be directed to Supervisory Patent Examiner Thomas Black at (571) 272-6956.

Donald Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DH/tb: 05/08/08

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

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of	:	
Roger A. Levitt et al	:	
Application No. 10/189,859	:	DECISION GRANTING PETITION
Filed: July 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6202P001	:	

This is a decision on the petition, filed September 1, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 3, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition 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 reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 28, 2004 was mailed on July 20, 2004.

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 3622 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Harold W. Nivens, et al. :
Application No. 10/189,889 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. 2001-IP-993945 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3671 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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Paper 12

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Candella et al. :
Application No.10/189,898 : DECISION ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. FRA175-04 :

Title of Invention: METHOD AND SYSTEM :
FOR DETECTING IDENTIFY THEFT IN :
NON-PERSONAL AND PERSONAL :
TRANSACTIONS

This is a decision on the renewed petition under 37 CFR §1.137(b) filed September 13, 2004 to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on August 13, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 14, 2002. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(b) was dismissed on June 18, 2004.

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

Pursuant to petitioner's request deposit account 06-0540 is being charged the $55.00 one month extension of time fee to make the renewed petition timely

The Office acknowledges receipt of the executed declaration.

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

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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Paper 10

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

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JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of
Candella et al.
Application No.10/189,898
Filed: July 3, 2002
Attorney Docket No. FRA175-04

Title of Invention: METHOD AND SYSTEM FOR DETECTING IDENTIFY THEFT IN NON-PERSONAL AND PERSONAL TRANSACTIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed February 19, 2004 to revive the above-identified application.

This petition is hereby **Dismissed.**

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

This above-identified application became abandoned for failure to file a proper response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on August 13, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 14, 2002. This decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Although petitioner has provided an executed declaration, the declaration does not meet the requirements of 37 CFR 1.63 (a)(3). The declaration does not contain the citizenship of inventor Keith Kelland. Petitioner should submit a newly executed declaration which meets all the requirement of 37 CFR 1.63.

The revocation of power of attorney and change of correspondence address has been entered.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Ex, R. Aurora

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/189,945

Paper No.: _____

DATE : 8/23/05

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction on Patent No.: 6909281

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

☒ **Approved** — All changes apply.

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

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

Comments:

SPE

2862
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

10/189945 Cofe

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 1, 2005 Signature: (Jeremy R. Kriegel)

OIPE JC16 AUG 0 3 2005 PATENT & TRADEMARK OFFICE

Docket No.: 06005/37819
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
George W. Gassman et al.

Patent No.: 6,909,281 B2

Issued: June 21, 2005

For: POSITION SENSOR USING A COMPOUND MAGNETIC FLUX SOURCE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323

Certificate
AUG 0 8 2005
of Correction

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Specification:

At column 1, line 51, "operate" should be --operated--,

At column 2, line 26, "sensor" should be --sensors--,

At column 6, line 6, "52-72" should be --50-72--,

At column 6, line 8, "52-72" should be --50-72--,

At column 6, line 11, "52-72" should be --50-72--,

At column 7, line 66, "52-72" should be --50-72,

08/04/2005 TBESHAH1 00000011 6909281
01 FC:1811 100.00 OP
AUG 0 9 2005

At column 8, line 12, "magnets" should be --magnet's--,

At column 8, line 40, "52-72" should be --50-72--,

At column 10, line 2, "52-72" should be --50-72--,

At column 10, line 4, "52-72" should be --50-72--,

At column 10, line 6, "52-72" should be --50-72--,

At column 10, line 9, "52-72" should be --50-72--,

At column 10, line 19, "52-72" should be --50-72--,

At column 10, line 24, "52-72" should be --50-72--

At column 10, line 30, "52-72" should be --50-72--

At column 10, line 60, "embodiments" should be --embodiment--,

At column 10, line 60, "52-64" should be --50-64--,

At column 11, line 2, "52-64" should be --50-64--, and

At column 11, line 28, "52-64" should be --52-64--.

In the Claims:

In Claim 13, line 4, "relatives" should be --relative--.

AUG 0 9 2005

In the Drawings:

In Fig. 3c, the lower occurrence of "J1" should be --J2--.

At least one of the errors were found in the application as filed by applicant. Our check in the amount of $100.00 covering the fee set forth in 37 CFR 1.20(a) is enclosed.

The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 06005/37819. A duplicate copy of this paper is enclosed.

Dated: August 1, 2005

Respectfully submitted,

By Jeremy R. Kriegel

Jeremy R. Kriegel
Registration No.: 39,257
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorneys for Applicant

AUG 09 2005

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.	:	6,909,281 B2
APPLICATION NO.	:	10/189,945
ISSUE DATE	:	June 21, 2005
INVENTOR(S)	:	George W. Gassman 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 the Specification:

At column 1, line 51, "operate" should be --operated--,

At column 2, line 26, "sensor" should be --sensors--,

At column 6, line 6, "52-72" should be --50-72--,

At column 6, line 8, "52-72" should be --50-72--,

At column 6, line 11, "52-72" should be --50-72--,

At column 7, line 66, "52-72" should be --50-72,

At column 8, line 12, "magnets" should be --magnet's--,

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Jeremy R. Kriegel
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

AUG 0 9 2005

PTO/SB/44 (04-05)
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(Also Form PTO-1050)

At column 8, line 40, "52-72" should be --50-72--,

At column 10, line 2, "52-72" should be --50-72--,

At column 10, line 4, "52-72" should be --50-72--,

At column 10, line 6, "52-72" should be --50-72--,

At column 10, line 9, "52-72" should be --50-72--,

At column 10, line 19, "52-72" should be --50-72--,

At column 10, line 24, "52-72" should be --50-72--

At column 10, line 30, "52-72" should be --50-72--

At column 10, line 60, "embodiments" should be --embodiment--,

At column 10, line 60, "52-64" should be --50-64--,

At column 11, line 2, "52-64" should be --50-64--, and

At column 11, line 28, "52-64" should be --52-64--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Jeremy R. Kriegel
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

AUG 0 9 2005

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)

In the Claims:

In Claim 13, line 4, "relatives" should be --relative--.

In the Drawings:

In Fig. 3c, the lower occurrence of "J1" should be --J2--.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 1, 2005 Signature: Jeremy R. Kriegel (Jeremy R. Kriegel)

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Jeremy R. Kriegel
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

AUG 0 9 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSTROLENK FABER
GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 6,842,572	:	
Issue Date: 11 January, 2005	:	
Application No. 10/189,951	:	DECISION ON PETITION
Filed: 3 July, 2002	:	
Attorney Docket No. P/1702-4	:	

This is a decision on the petition filed on 1 June, 2009 and resubmitted on 16 September, 2009, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

NOTE:

The Notice of Change of Address and the Revocation/Power of Attorney filed on 1 June, 2009, have not been accepted or entered because Petitioner failed to provide the statement/certificate pursuant to 37 C.F.R. §3.73(b)—form enclosed. With any renewed Notice of Change of Address and/or Revocation/Power of Attorney, Petitioner must include that statement/certificate.

As a courtesy copy of the instant decision will be sent to Petitioner, however, all correspondence will be directed to the present address of record until the appropriate Notice(s) and supporting documentation are filed.

BACKGROUND

Patent No. 6,842,572 (the '572 patent) issued on 11 January, 2005. The first maintenance fee could have been paid during the period from 11 January, 2008, through midnight 11 July, 2008, or, with a surcharge, during the period from 12 July, 2008, through midnight 11 January, 2009. Accordingly, the patent expired after midnight 11 January, 2009, for failure to pay timely the first maintenance fee.

Patent No. 6,842,572
Application No. 10/189,951

The instant petition was filed on 1 June, 2009. Because the petition was submitted within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* credit card—and the above-identified patent is reinstated as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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

cc
CURTIS ALAN BIRNBACK
461 PINEBROOK BLVD
NEW ROCHELLE, NY 10804

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NEW YORK NY 10036-8403

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 6,842,573	:	
Issue Date: 11 January, 2005	:	
Application No. 10/189,951	:	DECISION ON PETITION
Filed: 3 July, 2002	:	(UPDATE)
Attorney Docket No. P/1702-4	:	

This is a an updated to the 28 September, 2009 decision on the petition filed on 1 June, 2009 and resubmitted on 16 September, 2009, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The update is the correction of the patent number (misstated at that time as 6,842,572) to 6,842,573 as noted above. The 28 September, 2009, decision correctly stated the application number, and a review of Office records indicates that the fees were properly assigned/credited.

NOTE:

The Notice of Change of Address and the Revocation/Power of Attorney filed on 1 June, 2009, have not been accepted or entered because Petitioner failed to provide the statement/certificate pursuant to 37 C.F.R. §3.73(b)—form enclosed. With any renewed Notice of Change of Address and/or Revocation/Power of Attorney, Petitioner must include that statement/certificate.

As a courtesy copy of the instant decision will be sent to Petitioner, however, all correspondence will be directed to the present address of record until the appropriate Notice(s) and supporting documentation are filed.

BACKGROUND

Patent No. 6,842,572 (the '572 patent) issued on 11 January, 2005. The first maintenance fee could have been paid during the period from 11 January, 2008, through midnight 11 July, 2008, or, with a surcharge, during the period from 12 July, 2008, through midnight 11 January, 2009.

Accordingly, the patent expired after midnight 11 January, 2009, for failure to pay timely the first maintenance fee.

The instant petition was filed on 1 June, 2009. Because the petition was submitted within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* credit card—and the above-identified patent is reinstated as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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

cc
CURTIS ALAN BIRNBACH
461 PINEBROOK BLVD
NEW ROCHELLE, NY 10804

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

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

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

COPY MAILED

OCT 25 2002

OFFICE OF PETITIONS

In re Application of Hsu, et al. Application No. 10/189,953 Filed: July 3, 2002 Atty Docket No. 920976.90261	DECISION GRANTING PETITION

This is a decision on the "Petition for Correction of Filing Date under 37 C.F.R. 1.10," filed October 15, 2002, requesting that the above-identified nonprovisional application be accorded a filing date of July 3, 2002, rather than the presently accorded filing date of July 4, 2002.

Applicants maintain that the above-identified application was deposited in the Express Mail Post Office to Addressee service of the USPS, pursuant to § 1.10 on July 3, 2002, and thus, is entitled to a filing date of July 3, 2002. Petitioners assert that the USPS incorrectly entered a "date-in" of July 4, 2002. In support thereof, applicants submit *inter alia*:

- a statement by patent attorney Michael J. McGovern as to when the discrepancy in filing date was discovered;
- a copy of the "Express Mail Post Office to Addressee" mailing label No. EL137793460US; and
- a copy of the Patent Application Transmittal Letter, bearing "Express Mail" mailing label number EL137793460US thereon.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal submitted is a copy of the transmittal present in the application file, and both bear the "Express Mail" mailing label number. Thus, petitioner has shown that this number was placed on the correspondence prior to the original mailing date. The "date-in" on the "Express Mail" mailing label submitted is July 4, 2002. However, the label also bears an official USPS date stamp of July 3, 2002. In addition, the shipment history for this "Express Mail" package set forth on the USPS website, www.usps.com, shows that this mailing was accepted by the USPS on July 3, 2002, at 5:38 pm in Milwaukee, Wisconsin (copy enclosed).

In view thereof, the petition is **GRANTED**.

No petition fee is necessary and none has been charged.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to July 3, 2002, and issuance of a corrected filing receipt.

Telephone inquiries specific to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: USPS website printout

#4

UNITED STATES POSTAL SERVICE

Track & Confirm

Shipment History

You entered EV13 7793 460U S

Your item was delivered at 11:44 am on July 05, 2002 in ARLINGTON, VA 22202 to US PTO 2327. The item was signed for by E SCOTT.

Here is what happened earlier:

- ARRIVAL AT UNIT, July 05, 2002, 11:28 am, ARLINGTON, VA 22202
- ENROUTE, July 03, 2002, 8:06 pm, ZIP Code 53299
- ACCEPTANCE, July 03, 2002, 5:38 pm, MILWAUKEE, WI 53203

Track & Confirm

Enter number from shipping re

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GOLDSTEIN LAW OFFICES, PC
34 DUMONT AVENUE
STATEN ISLAND, NY 10305-1450

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MAR 11 2010

In re Patent No. 6,888,463
Issue Date: May 3, 2005
Application No. 10/189,985
Filed: July 8, 2002
Attorney Docket No. G144D

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 29, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 3, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

MAIL

FEB 27 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of
Ghashghai et al.
Application No. 10/189,989
Filed: July 5, 2002
For: AUDIENCE MEASUREMENT SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on January 13, 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 future correspondence will be addressed to the below-listed address.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

Cc: Hickman Palermo Truong & Becker LLP
1600 Willow Street
San Jose, CA 95125-5106

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID P. GORDON
GORDON & JACOBSON, P.C.
65 WOODS END ROAD
STAMFORD, CT 06905

COPY MAILED

AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Jerrick C. Buck et al :
Application No. 10/189,993 :
Filed: July 5, 2002 :
Attorney Docket No. SYN-071 :

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
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RAJIV YADAV
EDWARDS LIFESCIENCES LLC,
ONE EDWARDS WAY
IRVINE CA 92614

COPY MAILED

OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerrick C. Buck et al.	:	
Application No. 10/189,993	:	ON PETITION
Filed: July 5, 2002	:	
Attorney Docket No. SYN-071	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 2007, 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 July 10, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 12, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3731 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.

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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RENNER KENNER GRIEVE BOBAK TAYLOR & WEBER
FOURTH FLOOR
FIRST NATIONAL TOWER
AKRON, OH 44308-1456

COPY MAILED
JUN 1 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Aaron R. Reynolds	:	
Application No. 10/190,009	:	NOTICE
Filed: July 8, 2002	:	
Attorney Docket No. 01034	:	

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

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

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

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

This application file is being referred to Publishing Division.

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

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

JEFFER, MANGELS, BUTLER & MARMARO
Seventh Floor
1900 Avenue of the Stars
Los Angeles, CA 90067-4308

JAN 15 2004

In re Application of:	:	
Kevin CHEN	:	
Application No. 10/190,015	:	DECISION ON PETITION
Filed: July 8, 2002	:	TO MAKE SPECIAL
Attorney Docket No. 64018-5001	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 5, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II. INFRINGEMENT

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

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

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

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(D) Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item II.

For the above stated reasons, the petition is GRANTED.

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

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

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

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

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

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

Jose' G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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DIW 06-04

Paper No. 10

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

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of	:
Southam et al.	: DECISION ON PETITION
Application No. 10/190,022	: UNDER 37 CFR 1.78(a)(3)
Filed: 2 July, 2002	: AND 1.137(b)
Attorney Docket No. ARC 2400 N3	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 17 October, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c)) for the benefit of priority to the prior-filed nonprovisional applications and international application set forth in the amendment filed concurrently with the present petition.

This is also a decision on the petition under 37 CFR 1.137(b),[1] to revive the present application.

---

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

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

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

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

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

The petition is **GRANTED**.

PETITION UNDER 37 CFR 1.137(b)

The application became abandoned on 20 February, 2002, for failure to file a timely response to the non-final rejection mailed on 19 November, 2002, which set a three (3) month shortened statutory period for reply. No extensions to the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 June, 2003.

Petitioner has submitted an amendment as the required reply.

PETITION UNDER 37 CFR 1.78(a)(3)

A petition for acceptance of a late claim for benefit under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(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]
> **(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 present application was filed on 2 July, 2002, and was pending at the time the present petition was filed. A reference to the above-noted, prior-filed nonprovisional applications and

---

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

international 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 29 November, 2000, and the claim for benefit herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications and international application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. §§ 120 and 365(c) , the petition to accept an unintentionally delayed caim to benefit to prior-filed nonprovisional applications and international application satisfies the conditions of 37 CFR 1.178(a), 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 365(c) 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 applications and international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

The application is being forwarded to Technology Center Art Unit 3762 for appropriate action on the amendment filed on 17 October, 2003, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120

and 365(c)) to the prior-filed nonprovisional applications and prior-filed international application.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBIN STEELE and JENNIFER L. STENGER

MAILED

AUG 1 6 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2005-1308
Application No. 10/190,031

DECISION ON PETITION

On May 31, 2005, the Board of Patent Appeals and Interferences (BPAI) mailed to applicants a "Notification of Non-compliance Regarding Oral Hearing." The notice from BPAI stated that applicants' request for oral hearing would not be granted because the request did not comply with the separate paper requirement of 37 CFR 1.194(b). On June 9, 2005, in response to the BPAI notice, applicants filed a "Petition under 37 CFR 1.183" to suspend the rules and grant the request for oral hearing. As set forth in the May 31, 2005 notice, a petition under Rule 183 includes three elements: 1) a request to suspend the separate paper requirement, 2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement be suspended or waived, and 3) the appropriate petition fee.

With regard to the request element of the petition, applicants state in numbered paragraph

1, that they request the separate paper requirement of the rule be suspended. Applicants have satisfied element one.

Element two of a petition under Rule 183 requires a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement be suspended or waived. In support of their argument under element two, applicants admit that the request for oral hearing was not filed as a separate paper but that the request was included as a statement in the appeal brief (see numbered paragraph 2, first sentence). The reason given by applicants for not requesting the oral hearing in a separate paper was that "the undersigned attorney followed the format of a previously submitted Appeal Brief in another case where the request for oral hearing was accepted even though not filed in a separate paper." While BPAI may have accepted an improperly filed oral hearing request based on the facts in another application, applicants have not demonstrated why the acceptance by BPAI of an improperly filed oral hearing request in an unrelated application would constitute an extraordinary circumstance causing a failure to comply with Rule 194(b) in this application. Moreover, applicants have not attempted to demonstrate that justice in this instance would require suspension of the rule. It is worth noting Rule 194(a) which states:

> An oral hearing should be requested only in those circumstances in which the appellant considers such a hearing necessary or desirable for a proper presentation of his appeal. <u>An appeal decided without an oral hearing will receive the same consideration by the Board of Patent Appeals and Interferences as appeals decided after oral hearing.</u> (emphasis added)

As the case will receive the same consideration whether or not a hearing is held, it appears that justice does not require a suspension of the rule for a separately filed oral hearing request.

As for the petition fee required by element three, applicants submitted a credit card payment form for $400.00 along with the petition. USPTO finance records show that $400.00 was charged to the applicants credit card on June 9, 2005. Applicants have satisfied element three.

Accordingly, the Petition is hereby DENIED.

BOARD OF PATENT APPEALS
AND INTERFERENCES

KIMBERLY JORDAN
Program and Resource Administrator
(571) 272-9797

Dinsmore & Shohl LLP
One Dayton Centre, One South Main St.
Suite 1300
Dayton, OH 45402-2023

krj

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TIMOTHY P. O'HAGAN
P O BOX 1054
PORTSMOUTH, NH 03802

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of
Gregory Ernest Park et al
Application No. 10/190,033
Filed: July 3, 2002
Attorney Docket No. BT-010

NOTICE

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

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

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

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

This file is being forwarded to Technology Center AU 3621.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 03-06

Paper No: __

WILLIAM L. KRAYER
1771 HELEN DRIVE
PITTSBURGH PA 15216

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Hays	:	
Application No. 10/190,039	:	DECISION
Filing Date: 5 July, 2002	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 13 February, 2006, and a letter of 16 February, 2006, considered under 37 C.F.R. §1.181.

For the reasons set forth below, the petition is **DISMISSED as moot**.

BACKGROUND

Petitioner avers that:

- the Board of Patent Appeals and Interferences issued its decision on 22 December, 2005, affirming the rejection(s) of the Examiner;
- the Examiner mailed a Notice of Abandonment on 10 January, 2006;
- on receipt (no date given) of the Examiner's Notice, Petitioner called the Examiner, and further avers that there were a series of conversations, "on the occasion of the third conversation with [the Examiner], she agreed that the Notice of Abandonment was a mistake."

Petitioner continues: "However it [was not] withdrawn. Accordingly, on February 8, 2006, applicant's attorney sent the Examiner a fax formally requesting withdrawal of the Notice of Abandonment ***."

The record reflects that the 10 January, 2006, Notice of Abandonment was vacated on 22 February, 2006, by the Office of the Solicitor.

Thus, the relief sought in the instant petition already has been given and the issue is moot.

Of note, however, are the following:

- under the Rules of Practice, and consistent with the regulations at 37 C.F.R. §1.2,[1] all practice before the Office is in writing;
- thus, whether or not the Examiner prematurely mailed a Notice of Abandonment, Petitioner's remedy under the Rules of Practice (and 37 C.F.R. §1.2) was not–at least in the first instance–a telephone call to the Examiner, but, rather, the filing of a petition under 37 C.F.R. §1.181.

As one registered to practice before the Office, Petitioner is aware that this was and is the only methodology to evidence for the record the diligence of prosecution that Petitioner brings to his work.

CONCLUSION

As indicated above, the relief which Petitioner originally sought herein–i.e., the granting of the petition under 37 C.F.R. §1.181, the withdrawal of the holding of abandonment and the vacation of the 10 January, 2006, Notice of Abandonment has occurred.

Therefore, the instant petition is **dismissed as moot**.

The application is released to Technology Center 3600 to await further action as is proper in the premises in due course.

---

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

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JUL 16 2003

OFFICE OF PETITIONS

Chauncey Johnson
14625 Baltimore Ave #282
Laurel, MD 20701

In re Application of
Jen
Application No. 10/190,040
Filed: July 5, 2002
Atty. Dkt. No.: JA-TJL101-US2

ON PETITION

This is a decision on the petition, filed April 4, 2003, under 37 CFR 1.183 to expedite the processing of the instant petition.

This is also a decision on the petition, filed April 4, 2003, under 37 CFR 1.182 to withdraw the Notice of Incomplete Nonprovisional Application ("Notice") mailed March 18, 2003.

The petition under 37 CFR 1.183 to expedite the processing of the instant petition is hereby **GRANTED**.

The instant application was submitted July 5, 2002 as a continuation-in-part of U.S. Application No. 09/853,570. The Notice mailed March 18, 2003 indicated that the application had not been accorded a filing date because the application was deposited without drawings in accordance with 37 USC 113(first sentence).

In response to the Notice, petitioner has submitted a copy of the application, including one drawing sheet, and alleges that the application as filed included one drawing figure.

Petitioner asserts that the application as filed included one drawing figure, however, petitioner has provided no evidence to this effect.

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

While petitioner alleges the application as deposited included a return postcard, notation in the official application indicates that no postcard was received by the Office.

In view of the above, the petition to withdraw the Notice mailed March 18, 2003 is hereby **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 5, 2002 with an indication that -0- sheets of drawings were present on filing.

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

Alesia M Brown for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOV 21 2005

WAYNE J. YEOMAN
1690 W. PLEASANT VIEW DR.
PLEASANT VIEW, UT 84414

In re Application of:		
Wayne J. Yeoman	:	*SUA SPONTE*
Application No. 10/190,050	:	WITHDRAWAL OF
Filed: July 8, 2002	:	HOLDING OF
For: SCAFFOLDING SYSTEM	:	ABANDONMENT

A review of the above application reveals that a Change of Correspondence Address was filed on January 20, 2004. The Change of Correspondence Address, dated January 20, 2004 states that correspondence in this application should be mailed to

WAYNE J. YEOMAN
1690 W. PLEASANT VIEW DR.
PLEASANT VIEW, UT 84414

However, the Office action of October 8, 2004 was mailed to

John E. Schone
1759 No. 250 W.
Layton, UT 84041

A Notice of Abandonment was mailed on June 2, 2005 to the same incorrect address, stating no response to the action of October 8, 2004 had been received.

In view of these facts, the abandonment of the application is withdrawn. The application will be forwarded to the Supervisory Legal Instruments Examiner for remailing of the Office action dated October 8, 2004. The period of reply will be reset to the remailing date of the Office action.

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

RAR/bkg 11/4/2005

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.
10/190,054	07/03/2002	Chih-Hung Huang	67,200-268	4032

7590 07/11/2008

TUNG & ASSOCIATES
Suite 120
838 W. Long Lake Road
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EXAMINER
WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
07/11/2008	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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TUNG & ASSOCIATES
Suite 120
838 W. Long Lake Road
Bloomfield Hills, MI 48302

MAILED
FROM DIRECTORS OFFICE

JUL 10 2008

TECHNOLOGY CENTER 3600

In re Application of HUANG ET AL.
Appl. No.: 10/190,054
Filed: July 03, 2002
For: PADDLE FOR SECURELY MOUNTING A WAFER CASSETTE HOLDER THERETO

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition filed January 22, 2008 to request relief in response to a second Notice of Non-compliant amendment mailed on December 31, 2007 without a 30 day time period for reply. The petition also requests a refund for the 3 month extension of time that applicant had to pay to file an amendment in response to the December 31, 2007 notice because the applicant contends that the notice should have been sent with a 30 day time period for response.

The petition is hereby **GRANTED-IN-PART.**

A review of the file history shows that the applicant filed an amendment on June 6, 2007 in response to a non-final office action sent out on March 22, 2007 by the examiner. In this amendment, the applicant amended claims 1, 5, 11, 15, 21 and 22, canceled claims 2 and 12, and added new claims 23-26. Upon receipt of this amendment, the examiner issued a Notice of Non-Compliant amendment on September 11, 2007 setting a one month period for reply with extensions of time available under 37 CFR 1.136(a). The examiner pointed out that some of the claim changes were not indicated by the proper markings in accordance with 37 CFR 1.121.. For example, claim 1, line 6, "to" after "mating" is missing, and claim 5, line 4, the "a" before "connecting rod" should not have been underlined. In response to the Notice of Non-Compliance, the applicant then filed another amendment on October 4, 2007. In this response the applicant corrected the errors in claims 1 and 5 that were pointed out by the examiner in the Notice of Non-Compliant amendment of September 11, 2007. After receiving the October 4, 2007 amendment, the examiner then issued a second Notice of Non-Compliant amendment on

December 31, 2007. In the second notice, the examiner again pointed out that the applicant did not properly indicate all claim changes with the proper markings in accordance with 37 CFR 1.121. The examiner noted that claim 11, line 20, the comma inserted after the word "platform" was not indicated appropriately, and claim 11, line 20, "for" is missing from after "platform" and before "slidingly". The examiner also indicated that in claim 21, line 8, the ";" after "holder" has been replaced with a "," without the proper indicators. The examiner stated in the second notice that the applicant's time for response will continue to run from the mailing date of the first Notice of Non-Compliant amendment of September 11, 2007. Finally, in response to the second Notice of Non-Compliant amendment of December 31, 2007, on January 9, 2008, the applicant filed a third amendment correcting the comma in claim 11 and the semi-colon in claim 21. However, the applicant did not properly correct the "for" in claim 11. After receiving this final attempt at correcting the deficiencies, the examiner finally considered the amendment. However, by the time the examiner considered the amendment the six month period for response had passed. Therefore, the examiner indicated in a Notice of Abandonment that the response remained non-compliant due to the fact that the applicant did not correct the issue with "for" in claim 11 noted above.

After reviewing all of the amendments filed by applicant and the Notices of Non-Compliance issued by the examiner, it has been determined that the applicant's amendment filed on January 9, 2008 made a bona fide attempt at correcting all of the issues raised by the examiner in the last Notice of Non-Compliance. However, it should also be pointed out that the second Notice of Non-Compliance properly did not set a new response period due to the fact that it is not the examiner's responsibility to point out every instance of non-compliance in an amendment. The applicant was put on notice to thoroughly review the amendment for any other instances of non-compliance in response to said second notice. Therefore, applicant's amendment filed on January 9, 2008 is being considered a bona fide attempt. The abandonment therefore is hereby withdrawn and the amendment will be acted on by the examiner. In the next office action, the examiner will address the above noted deficiency with respect to claim 11 and the applicant will have another opportunity to correct it in their next response.

In regard to the request for the Director to deem that applicant's response filed on January 9, 2008 as timely filed, this request is **GRANTED.**

In regard to the request for the second Notice of Non-Compliance to be issued with a new 30 day time period, because the applicant was clearly instructed to review the entire amendment to ensure compliance with 37 CFR 1.121, this request is **DENIED.**

In regard to the request for the Director to authorize a refund of the fee applicants were required to pay for the three month extension of time, because the examiner's decision not to provide a new response period was a correct one, this request is **DENIED.**

In conclusion, the status of the application will be changed from abandoned to pending and awaiting action by the examiner. Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

The petition is hereby **GRANTED-IN-PART**.

Kathy Matecki
Patent Technology Center 3600
571-272-5250

BG/SM: 6/16/2008

BG/SM

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Garakani :
Application No. 10/190,057 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. 1133279-0031 :
For: BALLOON CATHETER

This is a decision on the petition under 37 CFR 1.181, filed September 12, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is GRANTED.

This application was held abandoned on May 4, 2005 for failure to respond in a timely manner to the non-final Office action, mailed February 3, 2005, which set a three (3) month period for reply. A Notice of Abandonment was mailed September 2, 2005.

Petitioner asserts that a proper response was in fact timely received in the Office on August 2, 2005. In support, petitioner submitted a copy of the amendment with a proper certificate of facsimile transmission affixed to the transmittal letter.

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

The transmittal letter bears a proper certificate of mailing, dated August 2, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Richard J. Sterner, had reasonable basis to expect that the correspondence would be transmitted on August 2, 2005.

In addition, petitioner has submitted a copy of the sending unit's report showing a successful transmission of a 21 page document to the Office's centralized facsimile number on August 2, 2005.

Therefore, the response to the February 3, 2005 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

No petition fee has been or will be charged in connection with this petition. However, the $510.00 three month extension of time fee that should have been charge on mailroom date August 2, 2005 will be charged to deposit account no. 23-1703.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 3731 for consideration of the amendment filed August 2, 2005 and resubmitted with the instant petition.

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

Shirene Willis Brantley

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

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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DEC 1 2 2006
OFFICE OF PETITIONS

In re Application	:	
Morteza Hemmati Garakani	:	
Application No. 10/190,057	:	DECISION ON APPLICATION
Filed: July 3, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 1133279-0031	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed October 4, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred thirty-seven (637) days to seven hundred nineteen (719) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **seven hundred nineteen (719) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 19, 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 six hundred thirty-seven (637) days. On October 4, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred nineteen (719) days.

Applicants assert entitlement to a patent term adjustment of seven hundred nineteen (719) days on the basis that the PTO improperly assessed Applicants a delay of one hundred thirty-two (132) days for responding to a February 3, Office action on September 12, 2005. Applicants assert that they filed a response on August 2, 2005.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of six hundred thirty-seven (637) days based on an adjustment for PTO delay of five hundred nineteen (519) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and two hundred fifty (250) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicant's delay of one hundred thirty-two (132) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of one hundred thirty-two (132) and two hundred fifty (250) days are at issue.

The adjustment of one hundred thirty-two (132) days has been found to be incorrect. A review of the file reveals the presence of a decision withdrawing the holding of abandonment, mailed June 29, 2006. The decision indicates that a response was timely filed on August 2, 2005, made timely by obtaining a three month extension of time. Accordingly, only ninety-one (91) days of applicant delay should have been assessed for the August 2, 2005 response, not one hundred thirty-two (132) days.

Furthermore, as Applicant filed the response on August 2, 2005, the Office should have been assessed additional delay in not mailing a Notice of Allowance until September 19, 2006. Office delay should have been assessed as two hundred ninety-one (291) days, not two hundred fifty (250) days.

---

[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred nineteen (719) days** (810 (519+291) days of PTO delay and 91 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 23-1703, as authorized.

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

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

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

Enclosure: Copy of Revised PAIR Screen

Day : Monday
Date: 12/11/2006

PALM INTRANET

Time: 11:43:06

PTA Calculations for Application: 10/190057			
Application Filing Date:	07/03/2002	PTO Delay (PTO):	769
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	132
Post-Issue Petitions:	0	Total PTA (days):	719
PTO Delay Adjustment:	82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	12/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	82		
40	09/19/2006	MAIL NOTICE OF ALLOWANCE	250		34
39	09/18/2006	ISSUE REVISION COMPLETED			
38	09/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	09/18/2006	NOTICE OF ALLOWABILITY			
36	09/06/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	07/18/2006	DATE FORWARDED TO EXAMINER			
34	09/12/2005	RESPONSE AFTER NON-FINAL ACTION		132	20
33	07/19/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
32	07/18/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
31	06/29/2006	PETITION TO REVIVE APPLICATION - GRANTED			
25	09/12/2005	PETITION ENTERED			
24	09/06/2005	REFERENCE CAPTURE ON IDS			
23	09/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/02/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	09/01/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	02/03/2005	MAIL NON-FINAL REJECTION	519		-1
19	02/02/2005	NON-FINAL REJECTION			
18	01/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	07/03/2002	PRELIMINARY AMENDMENT			
16	12/02/2002	PRELIMINARY AMENDMENT			

15	03/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	01/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/23/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	11/08/2002	APPLICATION DISPATCHED FROM OIPE			
11	10/31/2002	APPLICATION IS NOW COMPLETE			
10	10/09/2002	ADDITIONAL APPLICATION FILING FEES			
9	07/03/2002	CLAIM PRELIMINARY AMENDMENT			
7	10/09/2002	ADDITIONAL APPLICATION FILING FEES			
6	10/09/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	10/09/2002	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
4	08/08/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/24/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/23/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/03/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 4

TIMOTHY P. O'HAGAN
PO BOX 1054
PORTSMOUTH, NH 03802

COPY MAILED

OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Gregory Ernest Park et al	:	
Application No. 10/190,060	:	NOTICE
Filed: July 3, 2002	:	
Attorney Docket No. BT-011	:	

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 3621.

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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LERNER GREENBERG STEMER
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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MAY 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Chris Rose	:	
Application No. 10/190,122	:	DECISION ON PETITION
Filed: July 3, 2002	:	TO WITHDRAW
Attorney Docket No. None	:	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 3, 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 applicant. 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 2141.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: CHRIS ROSE
8914 S.W. 212 LANE
MIAMI, FL 33189

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OFFICE OF PETITIONS

BASCH & NICKERSON
1777 PENFIELD ROAD
PENFIELD NY 14526

In re Application of	:	
Klassen	:	
Application No. 10/190,125	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. D/98584D	:	

This is a decision on the petition, filed March 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP 1 5 2005

Sue Watson
KIMBERLY-CLARK WORLDWIDE, INC.
401 North Lake Street
Neenah, WI 54956

In re Application of	:	DECISION ON
David W. Kapiloff et al.	:	PETITION
Application No. 10/190,128	:	TO WITHDRAW THE
Filed: July 3, 2002	:	HOLDING OF
		ABANDONMENT

For: DISPENSER FOR MULTIPLE ROLLS OF SHEET MATERIAL

This is a decision on Applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on April 18, 2005.

The petition is **GRANTED**.

A review of the file record reveals that a Supplemental Notice of Allowability (with a requirement for corrected drawings) was mailed to applicant on January 3, 2005. The application was held abandoned and a Notice to that effect was mailed on February 18, 2005 stating that no corrected drawings had been received.

Applicant's petition indicates that the corrected drawings were timely submitted.

The Supplemental Notice of Allowability set a three month time period in which to respond, therefore, such response was due April 3, 2005. However, the Notice of abandonment was mailed February 18, 2005. The application should not have been held abandoned and the Notice of abandonment is hereby withdrawn.

The amendment filed February 18, 2005 (including the corrected drawings) was timely filed.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, enter the amendment of February 18, 2005, and return the application to pending status.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 9/13/05

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Paper No. 6

DOYLE B. JOHNSON
REED SMITH CROSBY HEAFEY
P.O. BOX 7936
SAN FRANCISCO CA 94120-7936

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SEP 29 2003
OFFICE OF PETITIONS

In re Application of	:
Noriyuki Yamashita	: DECISION ON PETITION
Application No. 10/190,131	: UNDER 37 CFR 1.78(a)(3)
Filed: 3 July, 2002	: AND 1.55(c)
Atty Docket No. 354615.00500	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/JP01/09623, filed on 2 November, 2001. This is also a decision on the request to add a claim of priority to foreign Japanese application No. P2000-337309, filed on 6 November, 2000, which is treated as a petition under 37 CFR 1.55(c).

The petition is **GRANTED**.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the

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

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

The present pending application was filed on 3 July, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/JP01/09623 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision

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series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

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.

Petitioner is advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

Petition under 37 CFR 1.55(c)

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

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

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

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

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

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

The above-identified pending nonprovisional application was filed on 3 July, 2002, which is after 29 November, 2000, and is a continuation of international Application No. PCT/JP01/09623,

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[2] See 37 CFR 1.4(c).

filed on 2 November, 2001, which claims priority to Japanese Application No. P2000-337309, filed on 6 November, 2000. Application No. PCT/JP01/09623 was filed within 12 months of 6 November, 2000, which is the earliest filing date of the foreign applications to which benefit is claimed. The amendment filed on 20 June, 2003, also identifies the foreign application for which priority is claimed. Pursuant to petitioner's authorization, the $1,300.00 surcharge has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The foreign priority claim has been entered in Office PALM records. A corrected Filing Receipt is enclosed which includes the foreign priority claims and projected publication date for the above-identified application.

The application is being forwarded to Technology Center 2800 for processing the amendment embodied in the petition filed on 2 July, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed international application and for consideration of the foreign priority claim under 35 U.S.C. § 119 and 37 CFR 1.55(c).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

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DOYLE B. JOHNSON
REED SMITH CROSBY HEAFEY
P.O. BOX 7936
SAN FRANCISCO CA 94120-7936

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OFFICE OF PETITIONS

In re Application of	:
Noriyuki Yamashita	: DECISION ON PETITION
Application No. 10/190,131	: UNDER 37 CFR 1.78(a)(3)
Filed: 3 July, 2002	: AND 1.55(c)
Atty Docket No. ~~354615.00500~~ 351778.06000	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/JP01/09623, filed on 2 November, 2001. This is also a decision on the request to add a claim of priority to foreign Japanese application No. P2000-337309, filed on 6 November, 2000, which is treated as a petition under 37 CFR 1.55(c).

The petition is **GRANTED**.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the

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

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

The present pending application was filed on 3 July, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/JP01/09623 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision

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series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

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.

Petitioner is advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

Petition under 37 CFR 1.55(c)

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

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

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

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

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

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

The above-identified pending nonprovisional application was filed on 3 July, 2002, which is after 29 November, 2000, and is a continuation of international Application No. PCT/JP01/09623,

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[2] See 37 CFR 1.4(c).

filed on 2 November, 2001, which claims priority to Japanese Application No. P2000-337309, filed on 6 November, 2000. Application No. PCT/JP01/09623 was filed within 12 months of 6 November, 2000, which is the earliest filing date of the foreign applications to which benefit is claimed. The amendment filed on 20 June, 2003, also identifies the foreign application for which priority is claimed. Pursuant to petitioner's authorization, the $1,300.00 surcharge has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The foreign priority claim has been entered in Office PALM records. A corrected Filing Receipt is enclosed which includes the foreign priority claims and projected publication date for the above-identified application.

The application is being forwarded to Technology Center 2800 for processing the amendment embodied in the petition filed on 2 July, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed international application and for consideration of the foreign priority claim under 35 U.S.C. § 119 and 37 CFR 1.55(c).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

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CAROLYN J. HUGHES
828 ELRICK PLACE
VICTORIA BC V9A4T-1 CA CANADA

COPY MAILED
AUG 27 2008

In re Application of :
Carolyn J. Hughes :
Application No. 10/190,155 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. HUGHES.PT1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 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** final agency action within the meaning of 5 U.S.C. § 704.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/190,155	HUGHES, CAROLYN J.	
	Examiner	Art Unit	
	DOHM CHANKONG	2152	

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

THE REPLY FILED 3/18/2007 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: *1-30*.
   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: _____.

/Dohm Chankong/
Examiner, Art Unit 2152

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MAY 05 2009

OFFICE OF PETITIONS

CAROLYN J. HUGHES
828 ELRICK PLACE
VICTORIA BC V9A4T-1 CA CANADA

In re Application of :
Carolyn J. Hughes :
Application No. 10/190,155 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. HUGHES.PT1 :

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

The petition is **DISMISSED.**

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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Alexandria, VA 22314

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachments: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/190,155	Applicant(s) HUGHES, CAROLYN J.	
	Examiner DOHM CHANKONG	Art Unit 2452	

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

THE REPLY FILED 27 March 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: _____.

/Dohm Chankong/
Primary Examiner, Art Unit 2452

Continuation of 3. NOTE: Applicant proposes amendments that substantially affect the scope of the claims. The amendments therefore require further consideration and cannot be entered because prosecution of the application has been closed. .

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CAROLYN J. HUGHES
828 ELRICK PLACE
VICTORIA BC V9A4T-1 CA CANADA

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Carolyn J. Hughes :
Application No. 10/190,155 :
Filed: July 5, 2002 :
Attorney Docket No. HUGHES.PT1 :

ON PETITION

This is a decision on the renewed petition, filed July 2, 2009 under 37 CFR 1.137(b) 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 petition does not satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the renewed petition received on July 2, 2009 is not signed. On page 2 of the renewed petition (in the middle of the page), the signature of Carolyn Hughes is missing. Accordingly, this petition can not be treated until the signature of Carolyn Hughes is received.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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CAROLYN J. HUGHES
828 ELRICK PLACE
VICTORIA BC V9A4T-1 CA CANADA

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Carolyn J. Hughes :
Application No. 10/190,155 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. HUGHES.PT1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114 which was previously filed on July 2, 2009; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2152 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
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PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Date et al.	:	
Application No. 10/190,158	:	DECISION GRANTING PETITION
Filed: July 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 48685/DBP/A400	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 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 December 31, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2129 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 25 2003

#9

STANLEY J. UAVNER
120 N. MAIN ST.
SUITE 203
NEW CIT, NY 10956

In re Application of	:	
Herbert Schlussel	:	
Serial No.: 10/190,233	:	DECISION ON PETITION
Filed: July 8, 2002	:	
For: Saliva Ejector	:	

This is in response to applicants' petition filed November 14, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

COPY MAILED

MAY 01 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Atsushi Yamaura et al	:
Application No. 10/190,244	:
Filed: July 3, 2002	:
Attorney Docket No. 2552-000010	:

This is a decision on the petition, filed April 27, 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2142 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG - 9 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED
AUG 9 2004
OFFICE OF THE DIRECTOR
TC 3600

Michael E. McKee
Attorney at Law
804 Swaps Lane
Knoxville TN 37923

In re Application of	:	
Joseph R. Drewery	:	
Serial No. 10/190,250	:	WITHDRAWAL FROM ISSUE
Filed: July 5, 2002	:	
For: SHARK TOOTH RETRIEVAL TOOL	:	

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 therefor 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.

Robert J. Oberleitner, Director
Technology Center 3600
Phone: (703) 308-1134
Fax: (703) 308-2177

cc: Office of Publications (2 copies)

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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DIW 08-04

JEFFERY L. CAMERON
NAWROCKI, ROONEY & SIVERTSON, P.A.
BROADWAY PLACE EAST, SUITE 401
3433 BROADWAY STREET NORTHEAST
MINNEAPOLIS MN 55413

COPY MAILED

JUN 2 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Harmos et al. :
Application No. 10/190,254 :
Filed: 5 July, 2002 :
Attorney Docket No. 81006/101/101 :

This is a decision on the petition under 37 CFR 1.182, filed on 22 April, 2004, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. T. Sage Harmos

2. James I. Baecker

A corrected Filing Receipt is enclosed for petitioners' records.

This application is being forwarded to Publishing Division for processing into a patent.

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.5

MAIL

MAR 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of
BARTON
Application No. 10/190,256
Filed: July 5, 2002
For:

SMART CARD DIGITAL VIDEO RECORDER SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on January 13, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw 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.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the files repository.

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

Cc: Hickman Palermo Truong & Becker LLP
1600 Willow Street
San Jose, CA 95125-5106

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

ROBERT H. EICHENBERGER
FROST BROWN TODD LLC
Suite 400
120 WEST SPRING STREET
NEW ALBANY, IN 47150

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of: Richard R. Navarro, Dennis M. Madigan, Morton B. Albert and Randall R. Theken Application No. 10/190,257 Filed: July 5, 2002 Title of Invention: FIXED AND VARIABLE LOCKING FIXATION ASSEMBLY	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the Petition Regarding Unsigned Inventor Pursuant to MPEP § 409.03 and 37 CFR 1.47, which is treated as a petition under 37 CFR 1.47(a), filed with the filing of the above-identified application on July 5, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

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, Dennis M. Madigan, 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 the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions
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

Mr. Dennis M. Madigan
11949 Clinton Road
Doylestown, OH 44230

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of: :
Richard R. Navarro, Dennis M. :
Madigan, Morton B. Albert and :
Randall R. Theken :
Application No. 10/190,257 :
Filed: July 5, 2002 :
Title of Invention: FIXED AND :
VARIABLE LOCKING FIXATION ASSEMBLY : LETTER

Dear Mr. Madigan:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ROBERT H. EICHENBERGER
FROST BROWN TODD LLC
Suite 400
120 WEST SPRING STREET
NEW ALBANY, IN 47150

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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SEP - 9 2004

MCDONNELL, BOEHNEN, HULBERT
& BERGHOFF
300 SOUTH WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

In re Application of	:
Dick Copeland et al	:
Serial No.: 10/190,263	: PETITION DECISION
Filed: July 3, 2002	:
Attorney Docket No.: 98-293-U	:

This is in response to the petition under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.181, filed June 14, 2004, requesting withdrawal of an improper terminal disclaimer

A review of the file history shows that applicants filed a terminal disclaimer on February 9, 2004, in response to an Office action rejecting the application for obvious double patenting. Inadvertently two digits of the patent being disclaimed over were transposed. As a consequence the terminal disclaimer was not accepted as overcoming the rejection. The examiner maintained the rejection in a Final Office action mailed May 6, 2004. It was at that time unclear to applicants whether the terminal disclaimer had been recorded and they request that if recorded it be withdrawn. Inasmuch as the terminal disclaimer was not acceptable it was not recorded against the application, however it remains in the application file. The later filed terminal disclaimer has been accepted and is recorded.

The petition is **GRANTED** to the extent indicated.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/190275 Patent No.: 6945178

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: _____

SPE

3636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV - 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 9

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of James STEWART, et al. Application No. 10/190,288 Filed: July 12, 2003 For: SYSTEM AND METHOD FOR CREATION OF SOFTWARE COMPONENTS	DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed June 12, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on July 14, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Lahive & Cockfield LLP as the attorneys of record of the instant application. The Power Of Attorney of July 14, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Lahive & Cockfield LLP.

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

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

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
(703) 305-9750

cc: Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 19, 2006

TO SPE OF : ART UNIT 2812 michael lebentritt

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/190,297 Patent No.: 7066557B1

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

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

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

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

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

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

Comments: _____

Matthew Lebentritt — **SPE**

2812 — **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
dw 10-03

Paper No. 10

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

COPY MAILED

OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/190,299	:	DECISION GRANTING PETITION
Filed: 3 July, 2002	:	
Attorney Docket No. QUANT1410	:	
(028248-3401)	:	

This is a decision on the petition, filed on 3 October, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 3 July, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 22 July, 2003, and that a Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing, setting forth a projected publication date of 8 January, 2004, was mailed on 25 July, 2003.

As the present petition was filed after 1 October, 2003 (certificate of facsimile transmission date 3 October, 2003), the fee schedule effective 1 October, 2003, applies. Therefore, a petition fee of $1,330.00 will be charged to counsel's deposit account, No. 50-0872, as authorized in the present petition.

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

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/190,299	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. LDQ-108/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed March 30, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on July 1, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the authorization to charge the $1020.00 extension of time fee with the petition on February 14, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will not be charged to petitioner's deposit account.

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

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

cc: HENKEL CORPORATION
LEGAL DEPARTMENT
1001 TROUT BROOK CROSSING
ROCKY HILL, CT 06067

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

MAR 18 2005

#9

Malloy & Malloy, P.A.
Historical Coral Way
2800 S.W. Third Avenue
Miami, FL 33129

In re Application of	:	
DURAN	:	
Serial No. 10/190,301	:	DECISION ON PETITION
Filed July 5, 2002	:	
For: Reinforced Undergarment	:	

This is a decision on petitioner's request, to review the holding of abandonment, mailed May 28, 2004, for failure to respond to an Office Action mailed October 7, 2003.

A review of the file indicates that a Terminal Disclaimer was filed by Applicant on February 13, 2004. However, Applicant incorrectly addressed the Terminal Disclaimer to application number 10/190,310. The Terminal Disclaimer and extension of time were entered into the incorrect application due to this clerical error on part of Applicant.

Since the Terminal Disclaimer and extension of time were timely received by the Patent Office in response to the October 7, 2003 Office Action, the **holding of abandonment is withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/2005

TO SPE OF : ART UNIT **2863**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/190302 6925422

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:

OK FOR ENTRY

John Barlow
Supervisory Patent Examiner
Technology Center 2800
SPE

2863
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

MORRISS, BATEMAN, O'BRYANT & COMPAGNI
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Furse and Blemel
Application No.: 10/190,311
Filed: July 5, 2002
Attorney Docket No: 1757,USU.CI1
For: FREQUENCY DOMAIN REFLECTOMETRY SYSTEM FOR BASELINING AND MAPPING OF WIRES AND CABLES

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 14, 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 8, 2002, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63, or remit required filing and claim fees. 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 the mailing date of the Notice.

In response thereto, petitioner filed the instant petition along, a request for an extension of time within the fourth month, and several accompanying exhibits through which petitioner established that the inventor Blemel has refused constructively to join the prosecution of 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.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth Blemel
12412 Sierra Grande Avenue, NE
Albuquerque, New Mexico 87112

In re Application of
Furse and Blemel
Application No. 10/190,311
Filed: July 5, 2002
Attorney Docket Number: 1757.USC.CI1
For: FREQUENCY DOMAIN REFLECTOMETRY SYSTEM FOR BASELINING AND MAPPING OF WIRES AND CABLES

LETTER

COPY MAILED
MAR 2 8 2003
OFFICE OF PETITIONS

Dear Mr. Blemel:

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

MORRISS, BATEMAN, O'BRYANT & COMPAGNI
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

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Paper No. 6

MORRISS, BATEMAN, O'BRYANT & COMPAGNI
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

OIPE JC156
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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Furse and Blemel
Application No.: 10/190,311
Filed: July 5, 2002
Attorney Docket No: 1757,USU.CI1
For: FREQUENCY DOMAIN REFLECTOMETRY SYSTEM FOR BASELINING AND MAPPING OF WIRES AND CABLES

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 14, 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 8, 2002, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63, or remit required filing and claim fees. 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 the mailing date of the Notice.

In response thereto, petitioner filed the instant petition along, a request for an extension of time within the fourth month, and several accompanying exhibits through which petitioner established that the inventor Blemel has refused constructively to join the prosecution of 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.

This application will be forwarded to the Office of Patent Publications 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of		
Falcone et al.	:	
Application No. 10/190,315	:	
Filed: July 3, 2002	:	NOTICE
Patent No. 6,836,540	:	
Issued: December 28, 2004	:	
Attorney Docket Number:	:	
63134/P002CP1/10205775	:	

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/27/09

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/190,321 Patent No.: 7,091,259

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ **SPE** 1796 **Art Unit**

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WASHINGTON, D.C. 20231
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Paper No. 6

HOGAN & HARTSON LLP
1200 17TH STREET, SUITE 1500
DENVER, CO 80202

In re Application of
Fox
Application No. 10/190,351
Filed: July 3, 2002
Attorney Docket No. RAM 503; Client Matter No. 80412.0152

ON PETITION

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MAR 2 4 2003
OFFICE OF PETITIONS

This decision concerns the petition, filed on November 12, 2002, requesting that the above-referenced application be accorded a filing date of July 3, 2002, rather than the presently accorded filing date of July 2, 2002.

The petition is **GRANTED.**

The petition requests a later filing date of July 3, 2002, on the basis that the application was deposited in the U.S. Postal Service "Express Mail Post Office to Addressee "service (USPS "Express Mail") on that day rather than on July 2, 2002 as shown by the "date-in" entry on the mailing label. This petition is being treated as a petition under 37 CFR 1.10(d).[1]

37 CFR 1.10(d) requires, *inter alia*,[2] a showing, establishing that the requested filing date was the date of deposit of the application in the "Express Mail" service prior to the last scheduled pickup for that day, and, corroborated by evidence from the USPS.[3] The application upon filing was accompanied by a July 3, 2002 "Certificate of Mailing by Express Mail," indicating that the application papers were being deposited with the "Express Mail" service on that day. This certificate of mailing is corroborated by the "Track & Confirm" information contained in the official USPS website. The petition is thus granted. No fee is owed.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 3, 2002. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[1] 37 CFR 1.10(d) (Aug. 2001) (Any person filing correspondence that was received by the Office and delivered by the USPS "Express Mail Post Office to Addressee" service, who can show that the "date-in" on the "Express Mail" mailing label . . . was incorrectly entered by the USPS, may petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS . . .).

[2] 37 CFR 1.10(d)(1) requires that the petition be filed promptly after the person becomes aware of the incorrect "date-in" entry by the USPS. This requirement is considered met. Also, as required by 37 CFR 1.10(d)(2), the number of the "Express Mail" mailing label, EV 035492402 US, is on the application transmittal form.

[3] 37 CFR 1.10(d)(3); MPEP section 513 (Aug. 2001).

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,570,063	:	DECISION ON REQUEST
Van Veen, et al.	:	FOR
Issue Date: August 4, 2009	:	RECONSIDERATION OF
Application No. 10/190,352	:	PATENT TERM ADJUSTMENT
Filed: July 3, 2002	:	and
Atty Docket No.032026:0587	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 25, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred and sixty-four (1,864) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, eight hundred and sixty-five (1,865) days is **GRANTED to the extent indicated herein.**

It is noted that patentees indicate that the applicant delay is 298 days, while the Office maintains that the applicant delay is 297 days. A review of the petition reveals that the discrepancy stems from the filing of Information Disclosure Statements (IDS) on December 18, 2008, and January 6, 2009, after the mailing of the Notice of Allowance on October 8, 2008. It is noted that 37 CFR 1.704(c)(10) provides that:

> 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;

Thus, the period of reduction for the IDS filed December 18, 2008, began on December 18, 2008, and ended four months thereafter on April 17, 2009. The resulting reduction to the patent term adjustment is 120 days. The period of reduction for the IDS filed January 6, 2009, began January 6, 2009, and ended four months thereafter on May 6, 2009. The resulting reduction to the patent adjustment is also 120 days. It is noted that the periods of reduction overlap to an extent. It is only appropriate to enter 120 days of reduction between December 18, 2009, and April 17, 2009, and enter an additional period of reduction of 19 days for the non-overlapping period beginning April 18, 2009, and ending May 6, 2009. Accordingly, the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) is a total of 139 days, not 140 days as patentees assert.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, eight hundred and sixty-five (1,865)** days.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,570,063 B2

DATED : Aug. 4,2009

INVENTOR(S) : Van Veen, 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 (1196) days

Delete the phrase "by 1196 days" and insert – by 1865 days--

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Alexandria, VA 22313-1450
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WALTER DZIKI
700 MULLADY PARKWAY
LIBERTYVILLE, IL 60048

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:
Walter Dziki	:
Application No. 10/190,357	: DECISION ON PETITION
Filed: July 3, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. WD01-3	:

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

The petition is **DISMISSED AS MOOT** for the reason stated below.

A review of the file record for this application discloses that a final Office action was mailed on September 8, 2004, which set a three month extendable period for reply. Accordingly, a reply was due on or before December 8, 2004, or March 8, 2005 with a three month extension of time fee. On February 8, 2005, petitioner herein filed a Notice of Appeal and fee of $250, along with a two month extension of time fee of $225. The time for filing an Appeal Brief or taking such further action was two months from the February 8, 2005 date of filing of the Notice of Appeal, with extensions of time available up to and including September 8, 2005. Therefore, since this application is not abandoned, the petition to revive is unnecessary and is dismissed as involving a moot issue.

In view of the above, the $750 petition fee submitted is unnecessary. Petitioner may request a refund of the $750 petition fee by writing to the Office of Finance at Mail Stop 16, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.

This matter is being referred to Technology Center AU 2856 for processing the Request for Continued Examination filed on June 8, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

In re Application of Chandra Vargeese et al Application No. 10/190,359 Filed: July 3, 2002 Attorney Docket No. MBHB01-841-A; 600.027	: : : : : :	NOTICE

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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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMANY MARSOUR BOGNANNO
1816 WALNUT ST., SUITE 705
PHILADELPHIA, PA 19102

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Amany Mansour Bognanno :
Application No. 10/190,368 :
Filed: July 5, 2002 :
Inventor(s): VALC-0001 :

ON PETITION

This is a decision on the petition, filed December 23, 2004, under 37 CFR 1.182, requesting to change the name of the sole inventor for the above-identified application.

The petition is **DISMISSED**.

The underlying application, upon filing on July 5, 2002, included a "Declaration and Power of Attorney" listing the inventor as "Amany Mansour Bognanno" and signed by the inventor.

The instant petition seeks to change the inventor's name from Amany Mansour Awad to "AMANY MANSOUR-AWAD," asserting that the inventor wishes to have the name reflected in the application due to marriage.

Generally, when an inventor has changed his/her name after the filing of an application and wishes to have the new name reflected in the application, he/she must file a petition under 37 CFR 1.182 that includes:

(1) a $400.00 petition fee;[1]

(2) an affidavit signed with both names and setting forth the procedure whereby the name change was effected, or, a certified copy of the court order.[2]

Since the petition lacks both items and is thus dismissed.

A renewed petition § 1.182 petition must be accompanied by proper

---

[1] The Office received a check in the amount of $130.00.

[2] There is no indication that applicant has provided a copy of the driver license.

evidence of inventor's legal name, be filed within two months of the mailing date of this decision, and should be addressed to:

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

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

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

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

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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MARTIN G LINIHAN
HODGSON RUSS LLP
ONE M&T PLAZA
SUITE 2000
BUFFALO NY 14203-2391

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JUL 1 0 2006
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In re	:
William J. Jackson	: DECISION ON APPLICATION
Application No. 10/190,386	: FOR PATENT TERM ADJUSTMENT
Filed: July 3, 2002	: AND
Patent No. 7,062,308	: NOTICE OF INTENT TO ISSUE
Issued: June 13, 2006	: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT PERIOD", filed June 23, 2006, notifying the Office of an error in Patentees' favor in the determination of patent term adjustment under 35 U.S.C. 154(b).

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred ninety-five (395)** days.

On June 13, 2006, the above-identified application matured into U.S. Patent No. 7,062,308. The patent issued with a Patent Term Adjustment of four hundred (400) days.

The Office determined a patent term adjustment of four hundred (400) days based on an adjustment for PTO delay of four hundred twenty-two (422) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and seventeen (17) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(3), reduced by thirty-two (32), five (5), and two (2) days of applicant delay pursuant to 35 U.S.C. 154 (b)(1)(C)(ii) and 37 C.F.R. 1.704(b).

A review of the application reveals that Applicant should have been assessed additional delay of five (5) days. The Office mailed a Notice to File Missing Parts on September 5, 2002. Applicant did not file a response until December 10, 2002. Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant should have been assessed five (5) days of delay with respect to this filing.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate. No petition fee was required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred ninety-five (395)** days subject to any disclaimers.

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

Kery A. Fries

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

Enclosure: Copy of Draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,062,308 B2

DATED : June 13, 2006

INVENTOR(S) : William J. Jackson

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 (400) days

Delete the phrase "by 400 days" and insert – by 395 days—

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JAN 12 2005

FLYNN, THIEL BOUTELL & TANIS, P.C.
2026 Rambling Road
Kalamazoo MI 49008-1699

In re Application of:
Hunter et al.
Serial No.: 10/190,391
Filed: July 3, 2002
Attorney Docket No.: IPPM Case 8

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on August 10, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed May 20, 2003.

A review of the file history shows that the examiner mailed an Office action to applicants on May 20, 2003, setting a three-month statutory time period for reply. On June 29, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was filed on August 20, 2003, showing a Certificate of Mailing executed on August 20, 2003. Applicants also submit a copy of the post card identifying the papers filed and showing a USPTO date-stamped receipt of August 25, 2003.

In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the response of August 20, 2003.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Charles S. Zuker	: DECISION ON REQUEST FOR
Patent Number	: 7588900	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/190,417	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS CA 92653

In re Application of :
Peter A. Altman, et al. :
Application No. 10/190,429 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. 212/406 :

This is a decision on the petition, filed March 18, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed May 6, 2004. A Notice of Abandonment was mailed on February 24, 2005. On March 18, 2005, petitioner submitted the present petition, an amendment and a petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Since the provisions of 37 CFR 1.136 are no longer available, the fees for an extension of time were not charged to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3737 for consideration of the amendment filed March 18, 2005.

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

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CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO CA 92691

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OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Altman et al.	:	
Application No. 10/190,429	:	DECISION ON PETITION
Filed: July 5, 2002	:	
Attorney Docket No. 212/406	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed October 28, 2008. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on April 29, 2009. A Notice of Abandonment was mailed June 9, 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 $405.00 and the submission required by 37 CFR 1.114 (previously submitted April 28, 2009); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3737 for processing of the Request for Continued Examination under 37 CFR 1.114 filed previously on April 28, 2009.

Joan Olszewski

Joan Olszewski
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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Paper No. 16

CHIRON CORPORATION
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

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JUN 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Megede, et al. :
Application No. 10/190,435 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. **18133.002 (2302-18133)** :

This is a decision on the petition under 37 CFR 1.137(a), filed May 24, 2004, to revive the above-identified application. The petition is properly treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to Restriction Requirement, mailed on September 24, 2003, which set a one month extendable period for reply. The Office has no record of receiving a timely response. Therefore, the Office contended that this application became abandoned on October 25, 2003. A Notice of Abandonment was mailed on May 13, 2004.

Petitioners assert that an election was timely submitted via first class mail with the United States Postal Service on February 11, 2004. In support of the petition, petitioners submitted a copy of the original transmittal letter, a copy of the four month extension of time fee which contained authorization to charge any required fees, a copy of the election, a copy of the IDS, and a copy of the petition under 37 CFR 1.48(a) which contained authorization to charge any required fees. An executed certificate of mailing pursuant to 37 CFR 1.8 dated "2/11/04" was affixed to each document.

Under 37 C.F.R. 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR § 1.1(a) and deposited with

the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The election and request for extension of time bear a proper certificate of mailing, dated February 11, 2004 in compliance with the requirements of 37 CFR § 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Pursuant to petitioners' authorization, the $110.00 petition fee will be credited to deposit account No. 18-1648. Financial records regarding the $1,480.00 four month extension of time and the $130.00 petition fee will be corrected to reflect a mailroom date of February 11, 2004.

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 application file will be forwarded to the Technology Center 1600's technical support staff for entry of the election, IDS, request for extension of time, and petition under 37 CFR 1.48(a) into Office computer records. Thereafter, the application file will be forwarded to the examiner for action in due course. The examiner will consider the petition under 37 CFR 1.48(a).

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

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

cc: DAHNA S. PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UDAY HEGDE
113 FORREST ROAD
WESTFORD, MA 01886

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Uday M. Hegde :
Application No. 10/190,437 :
Filed: July 3, 2002 : LETTER
Attorney Docket No. DAC-110XX :
Title: SYSTEM TO INTEGRATE FPGA :
FUNCTIONS INTO A PIPELINE :
PROCESSING ENVIRONMENT :

Dear Mr. Hegde:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JAMES F. THOMPSON
WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 6

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of
Uday M. Hegde
Application No. 10/190,437
Filed: July 3, 2002
Attorney Docket No. DAC-110XX
Title: SYSTEM TO INTEGRATE FPGA FUNCTIONS INTO A PIPELINE PROCESSING ENVIRONMENT

DECISION ACCORDING STATUS UNDER 37 CFR 1.147(b)

This is in response to the "Petition under 37 C.F.R. §1.47(b) for Filing A Patent Application when the Inventor Has Refused to Sign," filed December 9, 2002.

The petition under § 1.47(b) is **GRANTED**.

The above-identified application was filed on July 3, 2002, without the statutory basic filing fee and without an executed oath or declaration. Uday M. Hegde, William Mackay Ward and Stephen Watkins were identified as joint inventors. Accordingly, on August 7, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring *inter alia* the basic filing fee, an executed oath or declaration, and the surcharge under § 1.16(e) for late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In reply, rule 47 applicant filed the instant petition, and submitted *inter alia* payment of the petition fee ($130) and the surcharge under § 1.16(e)($65), and a petition for extension of time for response within the second month and fee ($200) to make the reply timely[1]. Accompanying the petition was a declaration executed by Chief Operating Officer Barry Egan, and identifying Uday Hegde as sole inventor. Rule 47 applicant asserts that acceptance of the declaration under § 1.47 is proper because sole inventor Hegde has refused to join in the application after having been presented with the application papers. Further, rule 47 applicant Datacube, Inc., states that they have a proprietary interest in the subject application, and that the acceptance of this application under § 1.47(b) is necessary to prevent irreparable damage. In support thereof, applicant submitted *inter alia* a declaration of attorney Lin B. Olsen with documentary evidence of the presentation of the application papers for signature to the non-signing inventor and details of

[1] December 9, 2002 was the first business day after Saturday, December 7, 2002.

his oral refusal; as well as, a copy of the assignment of the application to rule 47 applicant (as well as, reference to where this assignment is recorded in the Office).

Petitioner's evidence has been considered, and it is concluded that petitioner has met the requirements of 37 CFR 1.47(b).[2] Petitioner has submitted adequate proof of the unavailability of inventor Hegde, as well as, of rule 47 applicant's proprietary interest in the application. The petition includes the petition fee and a statement of the last known address of the non-signing inventor. The declaration executed by Chief Operating Officer Egan on behalf of rule 47(b) applicant and on behalf of the non-signing inventor has been reviewed and found in compliance with §§ 1.63 and 1.64.

In view thereof, this application is hereby accorded Rule 1.47(b) status.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] § 1.47(b) provides that:

Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-12-07

Paper No.: _____

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No. 7157623 B2 (10/190438)

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**.

Would claim 2 be the right claim to enter?

[signature] [signature]

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: corrects omission of amendment filed 6/5/06 (labelled AMSB in eDAN). SM

[signature] 1638

SPE **Art Unit**

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,157,623 Page (1) of 1

DATED : January 2, 2007

INVENTOR(S) : Schmidt et al.

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

In columns 31-32, lines 52 (Col. 31) and 40 (Col. 32), in Claim 2, delete "reduce yield, slow drying or increase storage problems of the transgenic plant" and insert - - alter the total protein content in seed of the transgenic plant - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

PATENT NO. 7,157,623

No. of additional copies

Atty Docket No: 1133.015US1

SEP 6 2007

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Commissioner for Patents
United States Patent and Trademark Office
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RICHMOND, HITCHCOCK, FISH & DOLLAR
P. O. Box 2443
Bartlesville OK 74005

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward L. Sughrue et al	:	
Application No. 10/190,457	:	DECISION ON PETITION
Filed: July 5, 2002	:	
Attorney Docket No. 33886US (KDK)	:	

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

The petition is **GRANTED.**

A Notice of Abandonment has not been mailed in this case. However, this application became abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of April 5, 2006 is accepted as being unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the address noted on the petition. However, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being referred to Technology Center AU 1764 for appropriate action in the normal course of business on the Appeal Brief received November 28, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Kameron D. Kelly
Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

05 APR 2006

In re Application of :
Timothy J. SPEIGHT :
Application No. 10/190,458 : DECISION ON PETITION TO
Filed: July 5, 2002 : MAKE SPECIAL
For: **SYSTEM AND METHOD FOR CHANNEL TRANSPORT FORMAT ALLOCATION IN A WIRELESS COMMUNICATION SYSTEM**

This is a decision on the petition filed February 28, 2006 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.

Petitioner has satisfied the requirements set forth above.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAULA D. MORRIS & ASSOCIATES, P.C.
d/b/a THE MORRIS LAW FIRM, P.C.
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042-3110

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OCT 19 2004

OFFICE OF PETITIONS

Applicant: Wollinghoff et al.
Appl. No.: 10/190,470
Filing Date: July 5, 2002
Title: NOVEL, MESOGENS AND METHODS FOR THEIR SYNTHESIS AND USE Attorney Docket No.: SwRI-2835-05
Pub. No.: US 2003/0168633 A1
Pub. Date: September 11, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 26, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the assignee information (Southwest Research Institute) is missing from the front page of the publication.

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

The request for corrected publication received on Jmarch 26, 2004, was not timely filed under 37 CFR 1.221(b).

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

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

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

Even if the assignment information was provided by applicant, this would not be a material mistake. A "material mistake" must affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On October 28, 2002, a Filing Receipt was mailed, which did not list the assignment information. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant's request for a corrected patent application publication on March 26, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04/508

DATE : 04/02/08

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/190490** Patent No.: **7186459**

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

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

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

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The changes involved only typographical Correction.

Carol Chaney — **SPE**

1794 — **Art Unit**

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. 5

CHARLES A. MUSERLIAN
C/O BIERMAN MUSERLIAN AND LUCAS
600 THIRD AVENUE
NEW YORK, NY 10016

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SEP 2 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Dominique Lesuisse et al	:	
Application No. 10/190,497	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. 446.005-DIV-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 5, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 6, 2002.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/7/08

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/190515 Patent No: 6972381 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: —

/ISHWAR PATEL/
04/30/08

SPE

2841
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of

Irene Griswald Prenner et al.
Application No. 10/190,548
Filed: July 9, 2002
Attorney Docket No. 08576.0030-00000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2007 and September 24, 2007.

The request is **APPROVED**.

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

The requests were signed by Deborah Katz, former attorney with the firm of Finnegan, Henderson, Farabow, Garrett & Dunner.

Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A non-final rejection was mailed on September 18, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet

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

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
PRENNER et al.	:	
Application No. 10/190,548	:	ON APPLICATION FOR
Filed: July 9, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 015270-006220US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed December 9, 2008. Applicant requests that the determination of patent term adjustment be corrected from zero (0) days to 342 days, plus any additional days of adjustment under 37 CFR 1.703(a)(6) for the Office's failure to issue the patent within four months after the date on which the issue fee was paid and all outstanding requirements were met. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date

of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on July 6, 2007.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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OFFICE OF PETITIONS

In re Patent No. 7,517,525	:	
PRENNER et al.	:	
Issue Date: April 14, 2009	:	DECISION ON REQUEST FOR
Application No. 10/190,548	:	RECONSIDERATION OF
Filed: July 9, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 015270-006220US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE PATENT" filed Monday, June 15, 2009, requesting that the patent term adjustment determination for the above-identified patent be corrected from two hundred eleven (211) days to two hundred seventy-seven (277) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 211 days.

On April 14, 2009, the above-identified application matured into U.S. Patent No. 7,517,525 with a revised patent term adjustment of 211 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of patent term adjustment is 277 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35

U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees states that there are no overlapping periods of delay between 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B). Therefore, patentees contend that they are entitled to the sum of 72 days of examination delay plus 726 days of Three Years Delay minus 521 days of applicant delay for a total patent term adjustment of 277 days.

Initially, the Office notes that that patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 726 days. Furthermore, patentees used the incorrect number of 726 days in calculating the requested patent term determination of 277 (72 + 726 - 521) days.

Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 727 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), July 10, 2005, and ending on the date the RCE was filed, July 6, 2007.[1] "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Accordingly, the Office will use the correct Three Years Delay period of 727 (not 726) days in reviewing the determination of patent term adjustment.

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

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)*[2] *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*

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[2] 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.

Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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 corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154 (b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on July 6, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, 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 from the filing of the application on July 9, 2002, to the filing of the RCE on

July 6, 2007. Thus, only the 67 days[3] of patent term adjustment accorded prior to the filing of the RCE pursuant to 37 CFR 1.702(a)(1) and (2)[4] are considered in determining overlap. The 5 days[5] for Office delay under 37 CFR 1.702(a)(4),[6] occurring subsequent to the filing of the RCE is not considered. The 727 days attributed to Office delay pursuant to 37 CFR 1.702(b) for failure to issue the patent within three years after the filing of the application is determined to overlap with the 67 days attributed to Office delay pursuant to 1.702(a)(1) and (2). 732

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[3] A Restriction Requirement was mailed on November 13, 2003, 14 months and 65 days after the application was filed on July 9, 2002. Additionally, the Office did not respond to the reply of October 7, 2004, until February 9, 2005, 4 months and 2 days after the date on which the reply was filed.

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken[.]

[5] The Office issued the patent on April 14, 2009, 4 months and 5 days after the payment of the issue fee on December 9, 2008.

[6] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> . . .
>
> (4) 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.

(727 + 5) days are the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered only an additional period of adjustment of 660 days for the Office taking in excess of three years to issue the patent for a total of 732 days of Office delay.

In view thereof, the Office affirms the revised determination of patent term adjustment at the time of the issuance of the patent is 211 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on December 9, 2008. No additional fees are required.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APR 27 2009

OFFICE OF PETITIONS

In re Patent No. 6,932,243
Application No. 10/190,556
Filed: July 09, 2002
Attorney Docket No. **068754-0282**

NOTICE UNDER 37 CFR. 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 1998, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

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WASHINGTON, DC 20037

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hirokazu Takagi et al
Application No. 10/190,568
Filed: July 9, 2002
Attorney Docket No. Q71027

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed PCT Application No. PCT/JP97/04788, filed December 24, 1997, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

A national stage application filed 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 MPEP 1893.03 (b) and (c). Accordingly, it is not necessary for the applicants 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 under 35 U.S.C. § 371.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Publishing Division.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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DEC 2 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,934,296 B2	:	DECISION ON
Yoshimitsu Shimojo	:	PATENT TERM ADJUSTMENT
Issue Date: August 23, 2005	:	AND NOTICE OF INTENT
Application No. 10/190,577	:	TO ISSUE
Filed: July 9, 2001	:	CERTIFICATE OF
Attorney Docket No. 040301-0621	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(D)", filed October 13, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from four hundred forty-six (446) days to five hundred sixty-six (566) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred sixty-six (566)** days.

On August 23, 2005, the above-identified application matured into U.S. Patent No. 6,934,296. The instant request for reconsideration filed October 13, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of four hundred forty-six (446) days.

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

Patentee asserts that he should not have been assessed applicant delay of seventy-six (76) days for the submission of a "STATEMENT OF SUBSTANCE OF INTERVIEW".

The "STATEMENT OF SUBSTANCE OF INTERVIEW" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicant's "STATEMENT OF SUBSTANCE OF INTERVIEW" is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of seventy-six (76) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is five hundred sixty-six (566) days (566 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **five hundred sixty-six (566)** days subject to any disclaimers.

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

Kery A Fries

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

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-03-08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/190579** Patent No.: **6944205**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE _____ **Art Unit** 2611

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OFFICE OF PETITIONS

DAVIDSON BERQUIST
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4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Gilmour, et al.	:	
Application No.10/190,606	:	
Filed: 9 July, 2002	:	ON PETITION
Attorney Docket No.: 4022-6	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed on 6 February, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to Application No. 09/365,702, filed 2 August, 1999.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application(s) was made within the time period set forth in 37 CFR §1.78(a)(2)(ii) and further failed to include a proper reference to the above-noted, prior-filed application(s) as required by 37 CFR §1.78(a)(2)(i) and §1.78(a)(2)(iii).

Since this application was filed after November 29, 2000, a petition under 37 CFR §1.78(a)(3), along with submission of the reference to the prior-filed application(s)—here in an updated application data sheet (ADS) and as an amendment to the first line of the specification—is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application. *See* MPEP 1481.03, Rev. 3, August 2005, page 1400-93 and 94.

A petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

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

(2) the surcharge set forth in 37 C.F.R. §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §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.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed application(s) satisfies the conditions of 37 C.F.R. §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 C.F.R. § 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 C.F.R. §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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

---

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

Application No. 10/190,606

This application is being forwarded to the Examiner of Technology Center 2600 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed application(s).

Inquiries concerning this decision should be directed Senior Attorney John J. Gillon, Jr., at (571) 272-3214. Inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiners
Office of Petitions

Encl.: Corrected Filing Receipt

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PAUL J. FARRELL, ESQ.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

In re Application of	:	
Hwang, et al.	:	
Application No. 10/190,645	:	DECISION
Filed: 8 July, 2002	:	
Attorney Docket No. 678-894(P10220)	:	

This is a decision on the petition filed on 21 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.

Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

Thereafter, there will be no further reconsideration of this matter.[2]

2 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowabiblity and Fees Due (as to drawings) mailed on 8 September, 2006, with reply due on or before 8 December, 2006;

- the application went abandoned after midnight 8 December, 2006;

- the Office mailed the Notice of Abandonment 8 January, 2007;

- on 21 August, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that the Office action in question contained only a requirement for drawings, but no specificity as to what the nature of the requirements (i.e., there was no Form PRO-948 and no specificity from the Examiner in the Notice), and that Petitioner had replied timely with the payment of the Fees Due on 4 December, 2006, however, Petitioner's showing fails to evidence that he in fact replied to the drawings requirement in the form of new/replacement drawings and/or at the very least a written reply and inquiry to the Office as to necessary specifics—rather, Petitioner ignored the Notice and ignored the guidance at the Commentary at MPEP §711.03(c).

Moreover, after Petitioner failed to reply to the drawings matter, he appears to have ignored the 8 January, 2007, Notice of Abandonment for more than seven (7) months, contrary to the requirements of the regulations at 37 C.F.R. §1.181 under which he now seeks relief.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

STATUTES, REGULATIONS AND ANALYSIS

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

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

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented

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

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

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

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

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

in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And, further:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

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

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

> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

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

Petitioner appears not to have satisfied the showing burdens or the timing requirements herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[13]

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[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553

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OFFICE OF PETITIONS

In re Application of	:	
Hwang, et al.	:	
Application No. 10/190,645	:	DECISION
Filed: 8 July, 2002	:	
Attorney Docket No. 678-894(P10220)	:	

This is a decision on the petition, filed on 12 February, 2008, considered as a petition under seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (as to drawings) mailed on 8 September, 2006, with reply due on or before 8 December, 2006;

The instant application went abandoned by operation of law after midnight 8 December, 2006;

The Office mailed the Notice of Abandonment 8 January, 2007.

On 21 August, 2007, Petitioner filed a petition seeking relief under 37 C.F.R. §1,181 with, *inter alia*, an averment that the Office action in question contained only a requirement for drawings, but no specificity as to what the nature of the requirements (i.e., there was no Form PRO-948 and no specificity from the Examiner in the Notice), and that Petitioner had replied timely with the payment of the Fees Due on 4 December, 2006, however, Petitioner's showing failed to evidence that he in fact replied to the drawings requirement in the form of new/replacement drawings and/or at the very least a written reply and inquiry to the Office as to necessary specifics, and Petitioner failed to comply with the Notice and with the guidance at the Commentary at MPEP §711.03(c)or reply to the 8 January, 2007, Notice of Abandonment for more than seven (7) months, contrary to the requirements of the regulations at 37 C.F.R. §1.181—and the petition was dismissed on 10 December, 2007.

On 12 February, 2008, Petitioner filed the instant petition with fee, a reply in the form of corrected drawings, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

[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).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON, VA 20190-5061

MAILED

DEC 18 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of :
Jeffrey Douglas Greenberg :
Application No. 10/190,658 :
Filed: July 9, 2002 :
For: METHOD FOR SAVING ABANDONED :
SHOPPING CARTS USING AN E-MAIL :
LAUNCHED WEB TRANSACTION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 4, 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 26, 2003. The correspondence address has now been changed to the following:

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON, VA 20190-50611

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

RAR/cps: 12/10/03

cc:

PIPER RUDNICK LLP
Supervisor, Patent Prosecution Services
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMOTT, WILL & EMORY
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Patent No. 6,738,285 B2 :
Patent Issue Date: May 18, 2004 :
Application No. 10/190,668 : ON PETITION
Filed: July 9, 2002 :
Attorney Docket No. 57454-635 :

This decision concerns the June 1, 2004 "Petition under 37 CFR 1.183 to Correct Assignee Information."

The petition is **GRANTED.**

On March 31, 2004, the issue fee for the instant patent was submitted along with an Issue Fee Transmittal which indicated a certain assignee for this patent and the underlying application. Accordingly, the patent subsequently issued to that assignee. The instant petition requests a Certificate of Correction to correct the assignee information by adding a co-assignee.

A petition under 37 CFR 1.183 to correct assignee information requires:[1]

(1) A $130 petition fee [37 CFR 1.17(h)];[2]
(2) A request that 37 CFR 3.81 be waived, such that the assignee information may be corrected after issuance of the patent;[3]
(3) A statement that the failure to include the correct assignee information on the Issue Fee Transmittal was inadvertent;[4] and
(4) Proof of existence of the assignment.[5]

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1 MPEP sections 307, 1481 (Rev. 1, Feb. 2003).

2 Authorized to be charged to Deposit Account No. 50-0417.

3 Contained in petition.

4 Implied from petition.

5 The inventors assigned their entire interest in the instant patented invention to Mitsubishi Denki Kabushiki Kaisha ("Mitsubishi") and another entity on 5/28/02. Mitsubishi subsequently assigned its undivided partial interest in the patent to Renesas Technology Corp. on 9/8/03, before the patent grant (assignment recorded in the USPTO at Reel/Frame 014502/0289 on 9/10/03). Only Renesas Technology Corp. was listed in the Issue Fee Transmittal.

The instant petition meets all of the requirements and is thus granted.

As authorized, the $100 fee for providing a Certificate of Correction has also been charged to Deposit Account No. 50-0417.

The file is being forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction to **add the co-assignee:**

Mitsubishi Electric Engineering Company Limited
Tokyo (JP)

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
Stephen B. Heppe, et al.
Application No. 10/190,691
Filed: July 9, 2002
Attorney Docket No. 000571.00037

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 10, 2006.

The request is **NOT APPROVED**.

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

The 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

There is an outstanding Office action mailed August 22, 2006 that requires a response by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PRASAD NAIR
ADSI, INC.
7900 WISCONSIN AVENUE
BETHESDA, MD 20814

5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/190,703	07/09/2002	Cheryl D. Senter	SP036.C9	4680

26111 7590 01/30/2007
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
PAN, DANIEL H

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
01/30/2007	PAPER

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070125

DATE : January 25, 2007

TO SPE OF : ART UNIT

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

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:

Reference cited in 1449 on 03/14/04 already on record. No new matter has been introduced.

EDDIE CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: Eddie Chan **Art Unit** 2183

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of	)	
Thomas et al.	)	
Application No. 10/190,712	)	DECISION ON REQUEST TO
Filed: July 9, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 219.41665X00	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 23, 2003.

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

The request meets all the above listed requirements.

The request is APPROVED.

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

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

cc: c/o Grace Abercrombie
Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED
JUL 13 2005
OFFICE OF PETITIONS

In re Patent No. 6,843,484	:	
Issue Date: January 18, 2005	:	
Application No. 10/190,729	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. 38190/245560	:	

This is a decision on the petition filed February 10, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is GRANTED.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Questions regarding the certificate of correction should be directed to Certificate of Corrections Branch at (703) 305-8347 or (703) 305-8228.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 12

FITCH EVEN TABIN & FLANNERY
120 S. LaSALLE ST., S/1600
CHICAGO, IL 60603

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APR 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Stanley I. Lerner et al	:	
Application No. 10/190,751	:	NOTICE
Filed: July 8, 2002	:	
Attorney Docket No. 74240/303	:	

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 1772.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY, SUITE 207
ARLINGTON VA 22202

COPY MAILED

JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of
Garfinkel et al.
Application No. 10/190,754
Filed: July 9, 2002
Attorney Docket No. 24141

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed October 1, 2002, to change the order of inventorship.

The petition is GRANTED.

The file is being forwarded to the Office of Initial Patent Examination for changing the order of inventors from:

1. Eduardo N. Mitrani
2. Leonard I. Garfinkel
3. Andrew L. Pearlman

to:

1. **Leonard I. Garfinkel**
2. **Andrew L. Pearlman**
3. **Eduardo N. Mitrani**

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JEROME W. MASSIE IV, ESQ.
NIXON PEABODY LLP
401 9TH STREET, N.W.
SUITE 900
WASHINGTON, DC 20004-2128

COPY MAILED

MAR 17 2004

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Ichijo et al.	:	
Application No. 10/190,755	:	
Filed: July 9, 2002	:	
Atty Docket No.:	:	
740756-2518	:	

This is a decision on the Petition Under 37 CFR 1.181 Requesting Withdrawal of the Holding of Abandonment Based Upon Non-receipt of the Office Action Pursuant to MPEP Chapter 711.03(c), filed March 5, 2004.

The petition is **granted**.

Petitioner avers non-receipt of the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed August 6, 2002. In support of this assertion, Petitioner has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Office action was not received.

The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being forwarded to the Office of Initial Patent Examination for re-mailing the Notice.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 3 0 2009

OFFICE OF PETITIONS

In re Patent No. 7,547,321	:	
Issue Date: June 16, 2009	:	
Application No. 10/190,770	:	ON PETITION
Filed: July 5, 2002	:	
Attorney Docket No. 000100.0007	:	

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

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

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DELBERT J. BARNARD
BARNARD & PAULY, P.S.
P.O. BOX 58888
SEATTLE, WA 98138-1888

COPY MAILED

DEC 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Carl E. Iverson et al :
Application No. 10/190,772 : ON PETITION
Filed: July 5, 2002 :
Attorney Docket No. CH20 FLOAT :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed July 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 21, 2004.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE KY 40202-3352

COPY MAILED

OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of Michael Burke, Robert McNeill, and Keith Enscoe Application No. 10/190,775 Filed: July 8, 2002 Title: Beverage Brewer with Pour Over Feature	DECISION REFUSING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "Petition under 37 CFR § 1.47(a)," filed July 8, 2002.

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

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 8, 2002, with a declaration executed by joint inventors Michael Burke and Keith Enscoe on behalf of themselves and on behalf of nonsigning inventor Robert McNeill. Accompanying this declaration was the instant petition under § 1.47(a). Applicants assert that status under § 1.47 is proper because inventor McNeill has, by his conduct, refused to join in the application after having been presented with the application papers.

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

The petition includes payment of the petition fee and a statement of the last known address of nonsigning inventor McNeill. Further, by statement of attorney Vance Smith, rule 47 applicants have provided some evidence that nonsigning inventor McNeill has refused to join in the application after having been presented with the application papers. Rule 47 applicants state that the petition includes Exhibit C, which contains a copy of the cover letter transmitting the application papers to nonsigning inventor McNeill and a copy of the signed certified mail receipt. However, exhibit C is not present in the application file. In addition, the petition is not

grantable because the declaration submitted does not satisfy requirement (2).

The declaration submitted is defective. It is not in compliance with § 1.63. Specifically, the declaration does not state, pursuant to 35 U.S.C. 115 and 37 CFR 1.63(a)(4), that the person making the oath or declaration believes the named inventor or inventors to be the original and **first** inventor or inventors of the subject matter which is claimed and for which a patent is sought (Emphasis added). The declaration only states that the persons making the declaration believe themselves to be the "original and joint inventor." Accordingly, a new declaration is required. Further, given that the first page of the declaration does not identify all inventors, the signature blocks of the inventors are set forth on separate pages and the specification also does not identify by name all of the inventors, numbering of the pages of the new declaration is requested (i.e. 1 of 4, 2 of 4).

On renewed petition, rule 47 applicants should submit another copy of exhibit C and a new declaration in compliance with 35 U.S.C. § 115 and 37 CFR § 1.63.

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
ATTN: NANCY JOHNSON

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT MCNEILL
1527 PIRTLE DRIVE
GEORGETOWN, IN 47122

COPY MAILED

DEC 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Michael Burke, Robert McNeill, :
and Keith Enscoe : LETTER
Application No. 10/190,775 :
Filed: July 8, 2002 :
Title: Beverage Brewer with Pour :
Over Feature :

Dear Mr. McNeill:

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 Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BROOKE J. EGAN
STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE KY 40202-3352
(502) 587-3400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 8

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE KY 40202-3352

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DEC 0 5 2002

OFFICE OF PETITIONS

In re Application of
Michael Burke, Robert McNeill,
and Keith Enscoe
Application No. 10/190,775
Filed: July 8, 2002
Title: Beverage Brewer with Pour
Over Feature

DECISION ACCORDING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "Request for Reconsideration of Petition under 37 CFR § 1.47(a)," filed November 25, 2002.

The above-identified application was filed on July 8, 2002, with a declaration executed by joint inventors Michael Burke and Keith Enscoe on behalf of themselves and on behalf of non-signing inventor Robert McNeill; and a petition under § 1.47(a) for its acceptance. However, the petition was dismissed for failure to submit an acceptable declaration. In addition, an Exhibit C said to be offered to show that the application papers had been presented to non-signing inventor McNeill was not present among the petition papers.

On instant renewed petition, rule 47 applicants submitted another copy of exhibit C and a new declaration.

The declaration and petition have been reviewed and are now both found in compliance with the applicable provisions of §§ 1.47 and 1.63.

Accordingly, the petition is **GRANTED**.

This application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 22 2006

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
POST OFFICE BOX 37428,
RALEIGH, NORTH CAROLINA 27627.

In re Application of	:
Paul F. Agris	:
Serial No.: 10/190,795	: PETITION DECISION
Filed: July 8, 2002.	:
Attorney Docket No.: 5051.4741P	:

This is in response to the petition under 37 CFR 1.181, filed September 18, 2006, requesting that the citation of Chersi et al. constitutes a new ground of rejection and to designate it as such, so that applicants have a proper opportunity to respond.

BACKGROUND

A review of the file history shows that the examiner mailed a restriction requirement to applicants on September 8, 2003, wherein a six-way restriction was made.

Applicants responded on October 8, 2003, electing Group V (claims 33 - 44) for examination. The remaining claims 1 - 32 and 45 - 55 were cancelled.

The examiner mailed a non-final Office action on December 2, 2003, wherein the following rejections were made:

> Claims 33-44 were rejected under 35 U.S.C. 112 second paragraph.
> Claims 33-44 were rejected under 35 U.S. C. 103 as being unpatentable over Barany et al in view of Coolidge et al.

Applicants responded on June 2, 2004, with arguments for the 35 U.S.C. 112 and 35 U.S.C. 103 rejections.

The examiner mailed a final Office action on August 25, 2004, wherein the rejection of claims 33-44 under 35 U.S.C. 103 over Barany et al. in view of Coolidge et al. was maintained. The 35 U.S.C. 112 second paragraph rejection of claims 33-44 was withdrawn.

Applicants responded to the final Office action with an amendment after final response on October 18, 2004.

In response thereto, the examiner mailed an advisory action on November 04, 2004, maintaining the 35 U.S.C. 103 rejection over Barany et al. in view of Coolidge et al.

Applicants filed an R.C.E. on February 17, 2005 and continued to argue the 35 U.S.C. 103 rejection over Barany et al. in view of Coolidge et al.

The examiner mailed a non-final Office action on May 5, 2005 wherein the following rejections were made:

> Claims 40-45 were rejected under 35 U.S.C. 112 second paragraph as being indefinite.
> Claims 33-40 and 43 were rejected under 35 U.S.C.103 over Coolidge et al. in view of Barany et al.
> Claim 41 was newly rejected under 35 U.S.C. under 103 over Collidge et al in view of Barany et al. and further in view of Schena et al.
> Claim 42 was newly rejected under 35 U.S.C. under 103 over Collidge et al in view of Barany et al. and further in view of Arena et al.

Applicants responded on August 5, 2005 with arguments and an amendment to claim 44.

The examiner mailed another non-final Office action on September 20, 2005 wherein the following rejections were made:

> The rejection of claims 33-40 and 43 under 35 U.S.C. 103 over Coolidge et al. In view of Barany et al. was maintained.
> The rejection of claim 41 under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of Schena et al. was maintained.
> Claim 42 was newly rejected under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of Cattell et al.
> Claim 44 was newly rejected under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of McClelland et al.
> The rejection on claim 42 under 35 U.S.C. under 103 over Collidge et al in view of Barany et al. and further in view of Arena et al. was withdrawn.

In response thereto, applicants filed an appeal brief on April 21, 2006 arguing the following rejections:

> The rejection of claims 33-40 and 43 under 35 U.S.C. 103 over Coolidge et al. in view of Barany et al.
> The rejection of claim 41 under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of Schena et al.
> The rejection of claim 42 under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of Cattell et al.
> The rejection of claim 44 under 35 U.S.C. under 103 over Collidge et al. in view of Barany et al. and further in view of McClelland et al.

The examiner mailed an Examiner's Answer on July 17, 2006 setting forth the rejections and addressing applicants' arguments. Additionally, in response to a specific argument set forth on page 8 of the Appeal Brief, the examiner used a clarifying reference (i.e. Chersi et al.) in their Examiner's Answer to clarify " capping vs. protective groups ".

In response thereto, applicants filed this petition on September 18, 2006 requesting that a new ground of rejection be designated based on a reference that was newly cited in the Examiner's Answer.

DISCUSSION

Applicants state that the examiner has made use of a new reference and hence has given a new ground of rejection without stating that it is a new ground of rejection and has hence prejudiced applicants from presenting new evidence.

Specifically, applicants state "A new reference, Chersi et al. (Biol. Chem. Hoppe-Seyler 372:845 (1991)), is cited in the Examiner's Answer (*See* Examiner's Answer, page 9). This reference is cited to support an argument presented in previous Office Actions. (*See* Office actions dated August 25, 2004, page 4, May 5, 2005, page 3, September 20, 2005, page 3). The Applicants addressed this argument in their responses (*See* Responses dated October 18, 2004, page 2, February 17, 2005, page 5, August 5, 2005, page 7; and Appeal Brief, pages 8-9) but have not had an opportunity to address Chersi et al. since this reference was not cited prior to the Examiner's Answer."

It is correct that the examiner has cited the Chersi et al. reference in the Examiner's Answer, but this reference was merely added as a clarifying reference in response to applicants' arguments. No new ground of rejection was made or need have been made.

DECISION

The petition is **DENIED**.

The application will be forwarded to the examiner for consideration of the reply brief filed September 18, 2006.

Should there be any questions about this decision please contact Ms. Marianne Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS, MI 49588-8695

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OFFICE OF PETITIONS

In re Patent No. 6,906,632	:	
Issued: June 14, 2005	:	
Application No. 10/190,809	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. DON01 P-979	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C § 120 for the benefit of a prior filed application.

The petition is **DISMISSED AS MOOT**.

The undersigned has reviewed the priority claims provided in the instant petition and compared the priority claims with the priority claims noted in the USPTO records. Although there are no new claims of priority in the petition, the continuity chain and/or relationships of the application claimed are different from those found in USPTO records. A petition under 37 CFR 1.78 is only necessary when new priority claims are made that were not made within the time period prescribed by 37 CFR 1.78(a)(2)(ii). A petition under 37 CFR 1.78 is not necessary to change the continuity chain and/or relationships of the applications claimed. This may be accomplished by certificate of correction. The instant petition is dismissed as moot, accordingly.

The petition fee of $1,370.00 will be refunded, in due course.

The file is being forwarded to the Certificate of Corrections Branch for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/28/07

Paper No.: _____

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/190818** Patent No.: **6881223**

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: _____

M J Hayes
SPE

3734
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

Paper No.

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AUG 21 2003

OFFICE OF PETITIONS

ON PETITION

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

In re Application of
Takashi Udagawa et al
Application No. 10/190,835
Filed: July 9, 2002
Attorney Docket No. Q70633

This is a decision on the petition, filed by facsimile transmission on August 21, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAESAR IAN GLEBOCKI
APT. 1403-S
1221 N. DEARBORN STREET
CHICAGO IL 60610

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MAY 14 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Glebocki et al. :
Application No. 10/190,850 :
Filed: July 9, 2002 :
Title: Global Telephony Integrated System, :
Method and Apparatus

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 3, 2007.

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

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on February 24 , 2006. The final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on March 2, 2007.

In the present petition, petitioner contends a timely reply to the final Office action was submitted on May 24, 2006.

A review of the record shows that a reply was submitted on June 1, 2006. Further review shows that the reply contained a certificate of mailing pursuant to 37 CFR 1.8 dated May 24, 2006.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The withdrawal of the holding of abandonment should not be construed as allowance of the application.

The application is being referred to Art Unit 2614 for review of the reply submitted on June 1, 2006.

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
WASHINGTON, D.C. 20231
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Paper No. 7

MILDE & HOFFBERG, LLP
SUITE 460
10 BANK STREET
WHITE PLAINS NY 10606

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of	:	
Okada	:	
Application No. 10/190,884	:	DECISION GRANTING PETITION
Filed: July 3, 2002	:	
Attorney Docket No. ARIAKE 204	:	
FOR: BROTH/STOCK AND METHODS FOR	:	
PREPARATION THEREOF	:	

This is a decision on the petition, filed August 7, 2002 (certificate of mailing date August 1, 2002), to accord a filing date of July 3, 2002 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on July 3, 2002. However, on July 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring, *inter alia*, drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on July 3, 2002 describes drawing Figures 1 and 2, but no drawing figures were filed on July 3, 2002.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

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

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

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed July 24, 2002, insofar as it pertains to the statement that the application was not entitled to a filing date, was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of July 3, 2002. The petition is granted.

Petitioner requests that drawing Figures 1 and 2 be accorded a July 3, 2002 filing date. Either the drawings were present in the Office on the filing date of the application or they was not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. Applicant does not allege in the petition that drawing Figures 1 and 2 were present in the Office on July 3, 2002, and a review of the file confirms that drawing Figures 1 and 2 were not present on July 3, 2002. Therefore, the application cannot be accorded a July 3, 2002 filing date with the drawings of Figures 1 and 2 as part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Pursuant to petitioner's authorization, the $130.00 petition fee will be refunded by means of a treasury check that will be scheduled shortly.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 3, 2002 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1700 for consideration of the Preliminary Amendment, filed July 31, 2002, that requests entry of proposed drawing Figures 1 and 2. The figures will be considered by the examiner of record for sufficiency of illustration and new matter. See MPEP 608.02.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSH FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA, CO 80014

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JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Michael K. Brashears et al
Application No. 10/190,888
Filed: July 2, 2002
Attorney Docket No. 41942-05519

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning 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 nonsigning 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 nonsigning inventor. Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration does not set forth joint inventor Van Hoy's residence/post office address and citizenship. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventors on behalf of themselves and nonsigning inventor Van Hoy is REQUIRED. See 37 CFR 1.76 and MPEP 409.03(a).

In further reviewing the file record, it is noted that, on March 27, 2003, a Notice of Incomplete Reply (Nonprovisional) was mailed requiring the submission of a $10 balance due for the basic filing fee and stating that the period for reply remains as set in the Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2002, which required the submission of $870 for the total filing fee ($740 for the basic filing

fee and $130 for the fee for the submission of a late oath or declaration). The correspondence received on February 19, 2003 (bearing a certificate of mailing date of February 10, 2003) was accompanied by the following fees: $740 for the basic filing fee; $130 for the surcharge fee; $1,454 for a four month extension of time, a $130 fee for a petition under 37 CFR 1.47(a); and another $130 fee for a petition under 37 CFR 1.47(a). Since only one fee is required for relief requested under 37 CFR 1.47(a), the duplicate $130 fee submitted is unnecessary. Accordingly, $10 of the duplicate $130 fee submitted will be applied towards the balance due for the basic filing fee, leaving an excess balance of $120.[1] In view thereof, the Notice mailed March 27, 2003 is vacated.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

Frances Hicks

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

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[1] Petitioner may request a refund of the excess $120 fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSH FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA, CO 80014

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Michael K. Brashears et al
Application No. 10/190,888
Filed: July 2, 2002
Attorney Docket No: 41942-05519

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a) AND
: GRANTING OF PETITION UNDER
: 37 CFR 1.183

This is a decision on the petition filed July 21, 2003, requesting reconsideration of a decision mailed June 2, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application. This is also a decision on a concurrently filed petition under 37 CFR 1.47(a), which is being treated as a petition under 37 CFR 1.183 seeking waiver of the provisions of 37 CFR 1.67(a)(1), which states that a supplemental oath or declaration must be executed by all the named inventors.

The petition under 37 CFR 1.47(a) is granted.

The petition under 37 CFR 1.183 is granted.

DECISION ON PETITION UNDER 37 CFR 1.47(a)

Petitioner has shown that the nonsigning inventors (Gilbert W. Van Hoy and Charles A. Gonzales) either cannot be located or refuse 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.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE THE PROVISIONS OF 37 CFR 1.67(a)(1)

MPEP § 603, provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." Therefore, the submission of a petition under 37 CFR 1.47(a) is not the appropriate avenue of relief in this instance.

Accordingly, the petition has been treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a)(1) for a supplemental declaration executed by less than all the named inventors who originally executed a declaration.

The petition filed on February 19, 2003 was dismissed in a decision mailed June 2, 2003, on the grounds that the oath or declaration was defective. More specifically, the declaration did not set forth joint inventor Van Hoy's residence/post office address and citizenship. As a result thereof, a new oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventors on behalf of themselves and nonsigning inventor Van Hoy was required.

Petitioner now requests acceptance of the supplemental declaration filed concurrently with the instant petition without the signature of previously signing inventor Ms. Tricia A. Dessel on the basis that she is now refusing to re-execute a new declaration due to a dispute between Ms. Dessel and the assignee of the parent application regarding the terms of her compensation. The petition further indicates that a letter was mailed to Ms. Dessel requesting her signature on the revised declaration. However, although the letter and revised declaration were received by Ms. Dessel, as shown by the evidence presented with the petition, Ms. Dessel has not responded to the request. In view thereof, petitioner now requests that the supplemental declaration be accepted without the signature of Ms. Dessel.

Under the circumstances recounted in the petition, justice would be served by suspending the requirements of 37 CFR 1.67(a). Accordingly, the substitute declaration received July 21, 2003 and executed by the three signing inventors and without the signature of previously signing joint inventor Ms. Dessel is accepted as a proper oath under 37 CFR 1.67(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MR. GILBERT VAN HOY
4871 YATES COURT
BROOMFIELD, CO 80020

4781

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Michael K. Brashears; Tricia Dessel; James Galbiati; Charles Gonzales; David L. Newcomb; and Gilbert Van Hoy
Application No. 10/190,888
Filed: July 2, 2002
For: NETWORK FORMATTING FOR REMOTE LOCATION OXIMETRY APPLICATIONS

Dear Mr. Van Hoy:

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

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

cc:

Marsch Fischmann & Breyfogle LLP
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

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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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Valeri Kotlov :
Application No. 10/190,892 :
Filed: July 8, 2002 :
Attorney Docket No. 0102323-00116 :

ON PETITION

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

RICHMOND, HITCHCOCK,
FISH & DOLLAR
P.O. BOX 2443
BARTLESVILLE, OK 74005

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MAY 1 9 2004

OFFICE OF PETITIONS

In re Application of :
Sughrue et al. :
Application No. 10/190,919 :
Filed: July 8, 2002 :
Attorney Docket No. 33982US :

ON PETITION

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 non-final Office action mailed September 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 4, 2003. A Notice of Abandonment was mailed on March 31, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on May 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 examination on the merits.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 5

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3380 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Fodor et al.	:	
Application No. 10/190,951	:	DECISION GRANTING PETITION
Filed: 8 July, 2002	:	
Atty's Dkt. No. 1000.3E	:	

This is a decision on the petition filed on 9 October, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figures 2-5, be accorded a filing date of 8 July, 2002.

On 8 July, 2002, the application was filed.

On 6 August, 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 8 July, 2002, but that Figure(s) 2-5 described in the specification appeared to have been omitted.

In response, on 9 October, 2002 (certificate of mailing date 1 October, 2002), one (1) sheet of drawings containing Figures 2-5 and the present petition were filed. Petitioners argue that one (1) sheet of drawings containing Figures 2-5 was filed with the other application papers on 8 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 8 July, 2002, with the above-identified application number, and acknowledges receipt, *inter alia*, of "Informal Drawings 42 sheets." Petitioners request that the application, including the one (1) sheet of drawings containing Figures 2-5, be accorded a filing date of 8 July, 2002.

A review of the record reveals that 41 sheets of drawings containing Figures 1, 6, 7, 8A-8B, 9A-9D, 10-12, 13A-13D, 14,

15A-15B, 16-19, 20A-20B, 21A-21B, 22A-22B, 23, 24A-24B, 25-27, 28A-28B, 29, 30-38, 39A-39C, 40A-40E, and 41 are located among the application papers deposited on 8 July, 2002. However, the evidence is convincing that the application papers deposited on 8 July, 2002, included one (1) sheet of drawing containing Figures 2-5 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figures 2-5 as described in the specification, is entitled to a filing date of 8 July, 2002.

The "Notice" mailed on 6 August, 2002, is vacated.

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

The application will be processed and examined using the one (1) sheet of drawing containing Figures 2-5 supplied on 9 October, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 8 July, 2002, using the application papers filed on 8 July, 2002, and the one (1) sheet of drawing containing Figures 2-5, supplied on 9 October, 2002, and for an indication in Office records that 42 drawing sheets were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MICHAEL BEST & FRIEDRICH
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4108

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of
James D. Waters et al
Application No. 10/190,957
Filed: July 8, 2002
Attorney Docket No. 10121-9696-01

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed November 19, 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 August 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1762l for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Amersham Biosciences Corp.
800 Centennial Avenue
Piscataway NJ 08855

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MAY 0 5 2003

OFFICE OF PETITIONS

In re Application of
Fuller and Szasz
Application No. 10/190,967
Filed: July 8, 2002
Attorney Docket No. PB0141
For: NOVEL DNA POLYMERASES HAVING AMINO ACID SUBSTITUTIONS AND HOMOLOGS THEREOF

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 9, 2002.[1]

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(a)," 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 July 8, 2002, without an executed oath or declaration. Accordingly, on August 7, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on December 9, 2002, applicant filed, *inter alia*, the present petition, a declaration signed by one of the two joint inventors, and an authorization to charge the requisite fees.

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

[1] Applicant obtained a two-month extension of time to respond. Accordingly, the petition is timely filed.

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), applicant fails to demonstrate that Joseph Szasz, the non-signing inventor, was presented with a complete copy of the application papers. It is apparent for the documentation provided that Mr. Szasz was presented with a Declaration and Power of Attorney. Unless Mr. Szasz was presented with a copy of the application papers (specification, claims and drawings), Mr. Szasz could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration. See 409.03(d). Applicant should show that a copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events.

Accordingly, applicant has not met the requirements of 37 CFR 1.47(a), and thus, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Amersham Biosciences Corp.
800 Centennial Avenue
P.O. Box 1327
Piscataway NJ 08855

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of
Fuller and Szasz
Application No. 10/190,967
Filed: July 8, 2002
Attorney Docket No. PB0141
For: NOVEL DNA POLYMERASES HAVING AMINO ACID SUBSTITUTIONS AND HOMOLOGS THEREOF

ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 1, 2003.

The petition is granted.

Petitioner has shown that Joseph Szasz, 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 Melissa Leck, Paralegal of the Intellectual Property Department at Amersham Biosciences Corp., establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present 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 1600.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Joseph Szasz
10738 Henning Drive
Chardon, OH 44024

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JUL 03 2003

OFFICE OF PETITIONS

In re Application of :
Fuller and Szasz :
Application No. 10/190,967 :
Filed: July 8, 2002 :
Attorney Docket No. PB0141 :
For: NOVEL DNA POLYMERASES :
HAVING AMINO ACID :
SUBSTITUTIONS AND HOMOLOGS :
THEREOF :

LETTER

Dear Mr. Szasz:

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 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 Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Amersham Biosciences Corp.
800 Centennial Avenue
PO Box 1327
Piscataway NJ 08855

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROWN & MICHAELS PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

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OFFICE OF PETITIONS

In re Application of :
Donna L. Valencia et al :
Application No. 10/190,968 : NOTICE
Filed: July 8, 2002 :
Attorney Docket No. DIZ-3 :

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

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

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

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

This matter is being referred to Technology Center AU 1761.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEINGRAM & ASSOCIATES P.C.
P.O. BOX 927
MAYWOOD, NJ 07607

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FEB 01 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Spano :
Application No. 10/191,009 :
Filed: July 8, 2002 :
Attorney Docket No. SPAND 30-002 :

This is a decision on the petition under 37 CFR 1.181, filed September 29, 2004, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Allowance and Notice of Allowability on March 24, 2004.

The Notices were returned to the Office on April 9, 2004. The scanned copy of the outside of the returned envelope fails to indicate the reason the Notices were returned rather than delivered. The addresses on the Notices were correct.

On September 3, 2004, a new Notice of Allowability was mailed. A new Notice of Allowance was not mailed on that date. A second Notice of Allowability was mailed on September 17, 2004.

On September 24, 2004, applicant spoke with the examiner and was notified the application was abandoned due to applicant's failure to timely respond to the March 24, 2004 Notice of Allowance.

The instant petition requests the holding of abandonment be withdrawn.

The record demonstrates the March 24, 2004 Notices were never received. Therefore, the Notice of Allowance and the Notice of Allowability mailed March 24, 2004 are vacated. The holding of abandonment is withdrawn.

Technology Center 3712 will be informed of the instant decision so that the examiner can mail a new Notice of Allowance and the time period for reply will be set from the mailing date thereof.

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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 14 2004

#10

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 6310208

In re Application of	:
John J. Talley et al	:
Serial No.: 10/191,012	: PETITION DECISION
Filed: July 8, 2002	:
Attorney Docket No.: PHA 4144.6	:

This is in response to the petition under 37 CFR 1.181, filed February 6, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on March 7, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed January 26, 2004. Applicants state that a reply was submitted on August 6, 2003, including a request and fee for a two month extension of time. The original reply has now been located and entered in the file. In view of applicants' timely reply the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

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, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of
Christopher T. McCormack
Application No. 10/191,027
Filed: July 2, 2002
Attorney Docket No. 6005.P001

ON PETITION

This is a decision in response to the petition, filed March 7, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 5, 2006. A Notice of Abandonment was mailed on January 8, 2007. In response, on March 7, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions 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[1].

The application is being referred to Technology Center AU 1621 for consideration of the amendment filed March 7, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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FEB 07 2003

OFFICE OF PETITIONS

In re Application of
Geller et al.
Application No.10/191,037
Filed: July 3, 2002
Attorney Docket Number: ANRI-8047US0

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed October 15, 2002, certificate of mailing date October 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 July 3, 2002, without a fully signed oath or declaration.

Accordingly, on August 12, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and the $130.00 surcharge for its late filing.

In response, on October 15, 2002, applicant submitted the $130.00 surcharge for late filing oath or declaration fee, and a petition. Pursuant to applicants' request the $130.00 petition fee was charged to deposit account 06-1325.

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 (2).

As to item (2) the declaration provided is not in compliance with 37 CFR 1.63 (c)(1). Rule 47 applicant has failed to provide the country of citizenship of inventor Geller pursuant to 37 CFR 1.63(a)(1).[1] Although rule 47 applicant provided the last known

[1] Where a rule 47 applicant has demonstrated diligent effort in trying to locate an inventor, a practitioner may provide a signed statement indicating to the best of their knowledge

address of Inventor Geller in the petition, the last known address must also be presented in the declaration pursuant to 37 CFR 1.63 (c)(1).

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

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the citizenship of the inventor.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, NW
SUITE 1750
ATLANTA GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Mueller :
Application No. 10/191,044 : ON PETITION
Filed: May 31, 2002 :
Attorney Docket No. 191314-1060 :

This is a decision on the petition, filed November 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition, filed November 29, 2004, under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is **DISMISSED**.

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 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]

---

[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).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the provisional 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)(I) 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 application was filed on May 31, 2002, within twelve months of provisional Application No. 60/378,450, which was filed on May 7, 2002, for which priority is claimed. A reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(6).

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(iii) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

A reference to add the above-noted, prior-filed provisional application on page one following the first sentence of the specification has been included in an amendment filed on November 29, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed provisional Application No. 60,378,450. 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 appli-cations, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment deleting the incorporation by reference statement for provisional Application No. 60/378,450, along with a renewed petition 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 U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208 .

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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APR 20 2005

OFFICE OF PETITIONS

In re Application of	:
Dennis W. Mueller	:
Application No. 10/191,044	: DECISION ON PETITION
Filed: May 31, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 191314-1060	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 10, 2005, and supplemented on March 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the amendment filed February 10, 2005, and supplemented on March 7, 2005.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/378,450, which was filed on May 7, 2002, for which priority is claimed.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 2856 for appropriate action on the amendment submitted February 10, 2005, and supplemented on March 7, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/378,450, filed May 7, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Mitchell E. Reff et al.	:	
Application No. 10/191,052	:	DECISION ON PETITION
Filed: July 10, 2002	:	TO WITHDRAW
Attorney Docket No. KD-JHU6000-1	:	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 19, 2008.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Kenneth E. Jenkins and all attorneys/agents of record have been revoked by the assignee of the patent application on January 6, 2009, 2008. 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.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: DLA Piper LLP (US)
4365 Executive Drive
Suite 1100
San Diego, CA 92121-2133

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

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/22/2010

Applicant	: Mitchell E. Reff	: DECISION ON REQUEST FOR
Patent Number	: 7604989	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/191,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean VA 22102

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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of
Pronin, et al.
Application No. 10/191,058
Filed: July 10, 2002
Attorney Docket No.: P 0280784 2001-031/2002-0
For: USE OF SPECIFIC T2R TASTE RECEPTORS TO IDENTIFY COMPOUNDS THAT BLOCK BITTER TASTE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 9, 2002.

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 July 10, 2002 without an executed oath or declaration. Accordingly, on August 7, 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 file substitute drawings in compliance with 37 CFR 1.84 and various sequence listing submissions.

In response, on December 9, 2002, a petition for a two month extension of time and required fee, a declaration executed by 7 of 8 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Janice P. Brown, a patent attorney serving as outside counsel for a party in interest, and Sherry Dollins, a senior paralegal for a party in interest, accompanied the petition. Ms. Dollins explains that non-signing joint inventor Dr. Adler, received numerous patent documents relating to several applications, but did not respond to the request that he sign the documents. Ms. Brown states that Dr. Adler's attorney, Ms. Spencer, sent Ms. Brown a letter attempting to obtain additional compensation in exchange for Dr. Adler's signature on the patent documents. A copy of this August 20, 2002 letter is an exhibit to Ms. Brown's statement.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. 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 inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts and their accompanying exhibits do not establish that a complete copy of the application was mailed to Dr. Adler or his attorney.

Dr. Adler must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Dr. Adler or his attorney was mailed or received the complete application and that Dr. Adler either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.

Dr. Adler cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. As pointed out by Ms. Spencer in her August 20, 2002 letter, "Dr. Adler's signature on the Declaration would obligate him, under penalty of "fine or imprisonment, or both" to particulars to which Dr. Adler can only attest after having had the opportunity to review the subject patent application...."

Petitioners must send Dr. Adler or Ms. Spencer a copy of the as filed above-identified application and request that the sign the declaration.

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

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

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

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

Telephone inquiries 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

Paper No. 9

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MAY 19 2003

OFFICE OF PETITIONS

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean VA 22102

In re Application of
Pronin, et al.
Application No. 10/191,058
Filed: July 10, 2002
Attorney Docket No.: P 0280784 2001-031/2002-0
For: USE OF SPECIFIC T2R TASTE RECEPTORS TO IDENTIFY COMPOUNDS THAT BLOCK BITTER TASTE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed April 25, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Dr. Adler, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Sherry Dollins and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have 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.

Petitioners paid the petition fee with the original petition on December 9, 2002. Petitioners paid another petition fee with the instant petition. Only one fee is necessary. Petitioners' deposit account no. 05-1323 will be refunded the petition fee submitted with the instant petition.

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
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

MCGINN & GIBB
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Seiichi Watarai	:	
Application No. 10/191,075	:	ON PETITION
Filed: July 10, 2002	:	
Attorney Docket No. NEC01P007-HSC	:	

This is a decision on the paper, filed May 25, 2005, to cancel 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 under 37 CFR 1.313(c) is **DISMISSED** as moot.

In view of the request filed May 25, 2005 to cancel the petition to withdraw from issue filed on May 20, 2005, the petition filed May 20, 2005 is dismissed as moot and the application **will proceed to issuance.**

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

The application is being referred to publishing division for issuance to Patent No. 6,900,679 on May 31, 2005.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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FEB 13 2003

OFFICE OF PETITIONS

DOCKET CLERK
P.O. BOX 802432
DALLAS, TX 75380

In re Application of Hugues, et al. Application No. 10/191,089 Filed: July 9, 2002 Atty. Dkt. No.: STMI06-00003 Title: PROTECTION CIRCUIT AGAINST VOLTAGE OR CURRENT SPIKES, AND CLOCK CIRCUIT USING A PROTECTION CIRCUIT OF THIS KIND	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed December 23, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed July 9, 2002 without a fully executed oath or declaration and naming Jean-Francois Hugues, Philippe Roche, and Richard Ferrant as joint inventors. Accordingly, on August 14, 2002, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was filed requiring an executed oath or declaration and surcharge.

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

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the inventor received the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Petitioner indicates the non-signing inventor has "refused to sign the declaration or otherwise join in the application."

Petitioner is reminded that before a refusal to sign an oath

or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-signing inventor was ever presented with a complete copy of the application papers (specification, including claims, drawings, oath or declaration) for the instant application and thereafter refused to execute an oath or declaration.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DOCKET CLERK
P.O. BOX 802432
DALLAS, TX 75380

In re Application of Hugues, et al. Application No. 10/191,089 Filed: July 9, 2002 Atty. Dkt. No.: STMI06-00003 Title: PROTECTION CIRCUIT AGAINST VOLTAGE OR CURRENT SPIKES, AND CLOCK CIRCUIT USING A PROTECTION CIRCUIT OF THIS KIND	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed July 14, 2003.

The petition is **GRANTED**.

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

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

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

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

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

Alesia M. Brown
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

RICHARD FERRANT
443 RUE LEO LAGRANGE
38920 CROLLES
FRANCE

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of Hugues, et al. Application No. 10/191,089 Filed: July 9, 2002 Atty. Dkt. No.: STMI06-00003 Title: PROTECTION CIRCUIT AGAINST VOLTAGE OR CURRENT SPIKES, AND CLOCK CIRCUIT USING A PROTECTION CIRCUIT OF THIS KIND	:	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
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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DRW Sep-06

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

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SEP 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	
Application No. 10/191,098	:	DECISION ON PETITION
Filed: 8 July, 2002	:	
Atty Docket No. 399154	:	

This is a decision on the petition filed on 28 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 21 April, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 20 January, 2006, which set a three (3)-month statutory period for reply. The

---

[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)).

filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Koujhi Miura, et al.	:	
Application No. 10/191,120	:	
Filed: July 9, 2002	:	
Attorney Docket No. MTS-2590US1	:	

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 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 2665 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060403

DATE : April 3, 2006

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,875,770

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE: Gladys JP Corcoran **Art Unit** 1744

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060403

DATE : April 3, 2006

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,875,770

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE: Gladys JP Corcoran **Art Unit** 1744

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#7

General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
300 Renaissance Center
P.O. Box 300
Detroit, MI 48265-3000

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FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

In re Application of
Matt C. Videtich
Application No. 10/191,131
Filed: July 9, 2002
For: RECEIVING TRAFFIC UPDATE INFORMATION AND RETOUTE INFORMATION IN A MOBILE VEHICLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 26, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on January 6, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 6/21/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PAUL S. MADAN
MADAN MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Fontana et al	:	
Application No. 10/191,152	:	DECISION ON PETITION
Filed: July 9, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 644-27268-US	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions filed April 12, 2005, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of prior-filed applications.

The petition is **DISMISSED**.

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

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

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

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

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(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). Note that 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.

Further, the amendment, as presently worded, is not acceptable. The amendment reads, in pertinent part, as follows:

> This application is also a continuation-in-part of U.S. Application Serial Nos. 10/094,208, filed Mar. 8th, 2002 and 09/353,272, filed July 14th, 1999, **both** of which claim priority from U.S. Application Nos. 60/108,601, filed November 16th, 1998; 60/101,541, filed Sept. 23rd, 1998; 60/092,908, filed July 15th, 1998; and 60/095,188, filed Aug. 3rd, 1998. [Emphasis added.]

However, as the newly added provisional applications were filed more than twelve months from Application No. 10/094,208, that application cannot claim priority to the provisional applications.

In view of the above, petitioner must submit a renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), along with a substitute amendment correcting the above deficiencies and complying with 37 CFR 1.121.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

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

Frances Hicks

Frances 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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PAUL S. MADAN
MADAN MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Peter Fontana et al :
Application No. 10/191,152 : DECISION ON PETITIONS
Filed: July 9, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 644-27268-US :

This is a decision on the renewed petitions filed August 2, 2005, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3671 for appropriate action on the amendment submitted August 2, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON, TX 77057-1130

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Peter Fontana et al :
Application No. 10/191,152 :
Filed: July 9, 2002 :
Attorney Docket No. 644-27268-US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 21, 2005, which set a shortened statutory period for reply of three (3) months. Three-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2005.

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

This matter is being referred to Technology Center AU 3671 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 7

RONALD CRAIG FISH
FALK & FISH
POST OFFICE BOX 2258
MORGAN HILL, CA 95037

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
Rakib et al. :
Application No. 10/191,164 :
Filed: July 8, 2002 :
Attorney Docket No. TER-022 :

ON PETITION

This decision concerns the March 8, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on October 9, 2002 for failure to timely submit replacement drawings as required by the August 8, 2002 "Notice to File Corrected Application Papers."

The instant petition encloses a set of replacement drawings which have been approved by the draftsperson, and the $665 petition fee (small entity); and states that the entire delay in filing these drawings was unintentional. The petition is thus granted.

The application is now complete.

The file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6790217	2004-09-14	10191184	2002-07-09	

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	/J. Gary Mohr/	Date (YYYY-MM-DD)	2008-10-28
Name	J. Gary Mohr	Registration Number	27575

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. 6790217
Issue Date: September 14,2004
Application No. 10191184
Filed: July 9,2002
Attorney Docket No. ETH-1672

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

This is a decision on the electronic petition, filed October 29,2008 ,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 October 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

OIPE JC167 JAN 1 2 2004 PATENT & TRADEMARK OFFICE

Image

1723 Pet. Dec.

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
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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 AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/191,191
Filing Date	July 9, 2002
First Named Inventor	Young Sik Nam et al.
Art Unit	UNASSIGNED
Examiner Name	UNASSIGNED
Attorney Docket Number	5008-1-004

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

Please withdraw me as attorney or agent for the above identified patent application, 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 33942

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The foreign law firm from which this case was originated has been non-responsive in both to our instruction and payments for the last two years.

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					
Address					
Address					
City		State		Zip	
Country					
Telephone				Fax	

Name	Steve Cha		
Signature		Registration No.	44,069
Date	7/8/04	Telephone No.	201-226-9245

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 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.

OIPE JC97
OCT 01 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT :	Yoong Sik Nam	Atty. Docket No: 5008-1-004	
SERIAL NO. :	10/191,191	EXAMINER	: Not yet assigned
FILED :	July 9, 2002	ART UNIT	: Not yet assigned
FOR :	MANIFOLD ADAPTED FOR REPLACEABLE FLUID CARTRIDGE		

RECEIVED
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Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231 on September 26, 2002.

Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)

9/26/02
(Signature and Date)

TRANSMITTAL OF REVOCATION AND APPOINTMENT OF ATTORNEYS

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Dear Sir:

The undersigned, as an Applicant(s) and owner hereof, hereby revokes all powers previously granted and appoints

Steve S. Cha **Registration No. 44,069**

of CHA & REITER, 411 Hackensack Ave, 9th floor, Hackensack, New Jersey 07601, as new attorney with full power of substitution and revocation, to prosecute the above application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent and Trademark Office connected herewith.

Please address any correspondence to

Steve Cha, Esq.
CHA & REITER
411 Hackensack Avenue
9th floor
Hackensack, New Jersey 07601

Customer No. 33942

and any telephone calls to Steve Cha, Esq., at (201) 518-5518.

Respectfully submitted,

Date: 9-10-2002 By: Yoongsik Nam
Applicant: Yoong Sik Nam

Date: 9/10/02 By: Soontae Kim
Applicant: Soon Tae Kim

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LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of

Woolsey, et al. :

Application No. 10/191,219

: DECISION ON PETITION

Filed: July 9, 2002

:

Attorney Docket No. 02-0295

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-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 16, 2005, which set a period for reply of one (1) month from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 17, 2006.

The amendment filed July 10, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3634 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
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P.O. BOX 1450
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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVEVLAND, OH 44114

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Zeuner, et al.	:	
Application No. 10/191,229	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. TRW(AS)6251	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 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 August 27, 2003. A Notice of Abandonment was mailed March 24, 2004.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 2154, for further processing of the request for continued examination under 37 CFR 1.114 filed May 20, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 5

MARK FARBER
ALEXION PHARMACEUTICALS, INC.
352 KNOTTER DRIVE
CHESHIRE, CT 06410

COPY MAILED

NOV 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Leonard Bell :
Application No. 10/191,238 :
Filed: July 1, 2002 :
Attorney Docket No. 76US :

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

BEST AVAILABLE COPY SPE FAHMY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/191,277

Paper No.: _____

DATE : 2/16/06

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6962866

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

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

The change by the applicant is appropriate and does not effect the scope of the claim

SPE

2814
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JJGJr.: 06-05

Paper No: __

KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Moller, et al. :
Application No. 10/191,306 : ON PETITION
Filed: 9 July, 2002 :
Attorney Docket No. PUUD-0027

This is a decision on the petition, filed on 9 October, 2002, to allow submission of color photographs in lieu of drawings for the above-identified application and appropriately considered under 37 C.F.R. §1.182 and §1.84.

The Office regrets the delay in addressing this matter, however, the petition was only received into the Office of Petitions at this writing.

The petition is **DISMISSED**.

BACKGROUND

The record indicates that:

- photographs (*i.e.*, Fig(s). 1A, 1B, 1C, 1D, 2 3A, 3B, 3C, 4A, 4B, 4C, 5, 6, 7, 8, 9A, 9B and 10) were submitted on 9 July, 2002, and resubmitted concurrently with the instant petition on 9 October, 2002, on pursuant to a 9 August, 2002, Notice to File Corrected Application Papers;

- no objection was entered by the Examiner or the Draftsperson as to the photographs;
- Notice of Allowance was mailed on 30 September, 2004, and no Drawings requirement was set forth in the accompanying Notice of Allowability.

ANALYSIS

The commentary, *inter alia*, at MPEP §608.02, sets forth the requirements for drawings and directs applicants to the regulations at 37 C.F.R. §1.84, which provide in pertinent part:

> **37 C.F.R. § 1.84. Standards for drawings.**
> (a) *Drawings*. There are two acceptable categories for presenting drawings in utility and design patent applications.
>
> (1) *Black ink*. Black and white drawings are normally required. India ink, or its equivalent that secures solid black lines, must be used for drawings; or
>
> (2) *Color*. On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:
>
> (I) The fee set forth in § 1.17(h);
> (ii) Three (3) sets of color drawings;
> (iii) A black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in

the color drawing; and

(iv) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

(b) *Photographs.*—

(1) *Black and white.* Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (*e.g.*, immunological, western, Southern, and northern), auto- radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.

(2) *Color photographs.* Color photographs will be accepted in utility and design patent applications if the conditions for accepting color drawings and black and white photographs have been satisfied. See paragraphs (a)(2) and (b)(1) of this section.

* * *

CONCLUSION

Petitioner filed the instant petition and paid the fee as required.

The Examiner and Draftsperson apparently observed Petitioner's compliance with the rule.

No further action is required at this writing in light of the Examiner's and Draftsperson's approval, with the result that the application has issued as a patent.

Accordingly the petition is **dismissed as moot**, however, the fee, a requirement of the rule, will not be refunded.

This application is released to Publications Branch to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

ARMSTRONG, WESTERMAN & HATTORI, LLP
1725 K STREET, NW.
SUITE 1000
WASHINGTON DC 20006

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DEC 2 6 2002

OFFICE OF PETITIONS

In re Application of
Nishi, et al.
Application No. 10/191,327
Filed: July 10, 2002
Attorney Docket No. 960212B
For: EXPOSURE APPARATUS AND METHOD

ON PETITION

This is a decision on the petition filed October 9, 2002, requesting, in effect, withdrawal of a Notice mailed August 13, 2002.

The application was filed on July 10, 2002. However, on August 13, 2002, The Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of July 10, 2002, and advising applicants that figure 15 appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the drawing should be included with the papers filed on July 10, 2002, because (1) it is not new matter and (2) it was originally filed in prior application No. 09,221,607, the entire disclosure of which was incorporated by reference at the time of filing.

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 items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items 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 items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawing was actually deposited in the PTO on July 10, 2002 with the other application papers nor request a later filing date.

Instead, applicants seek to add the figure to the present application on the basis that the figure is not new matter. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner without a petition so long as they contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or

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

If applicants desire that figure 15 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figure. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 10, 2002. Drawing figure 15 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center 2800 for consideration of the petition under 37 CFR 1.48(b), filed September 11, 2002, and examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 9

S. WADE JOHNSON
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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APR 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Michael R. Oldenburg :
Application No. 10/191,339 :
Filed: July 8, 2002 :
Attorney Docket No. 6793.01

NOTICE

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

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

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

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

This file is being forwarded to Technology Center AU 3676.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexander (Sasha) St. Clair
P.O. Box 980188
Park City UT 84098-0188

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Alexander Sasha St. Clair
Application No.10/191,345
Filed: October 5, 2002
Title of Invention: Aqua/Atmos Propellor Jet

ON PETITION

This is a decision on the petition filed January 11 2005 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 19, 2004. The Notice set an extendable one month reply period of May 19, 2004 . An extension of time pursuant to 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 20, 2004. A Notice of Abandonment was mailed on December 15, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> delay in filing the

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (2) .

The petition fee is a prerequisite to treatment of the petition. Although petitioner has submitted $55.00 towards the petition fee, effective December 8, 2004 the unavoidable petition fee for a small entity is $250.00. On renewed petition, petitioner should submit the $195.00 difference. The petition has not been reviewed on its merits.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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APR 0 7 2005
PATENT & TRADEMARK OFFICE

Alexander (Sasha) St. Clair
P.O. Box 980188
Park City UT 84098-0188

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Alexander Sasha St. Clair
Application No.10/191,345
Filed: October 5, 2002
Title of Invention: Aqua/Atmos Propellor Jet

ON PETITION

This is a decision on the petition filed January 11 2005 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 19, 2004. The Notice set an extendable one month reply period of May 19, 2004 . An extension of time pursuant to 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 20, 2004. A Notice of Abandonment was mailed on December 15, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> delay in filing the

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

04/08/2005 AWONDAF1 00000076 10191345
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required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (2) .

The petition fee is a prerequisite to treatment of the petition. Although petitioner has submitted $55.00 towards the petition fee, effective December 8, 2004 the unavoidable petition fee for a small entity is $250.00. On renewed petition, petitioner should submit the $195.00 difference. The petition has not been reviewed on its merits.

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

By mail:

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P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(703) 872-9306

By delivery service:
(FedEx, UPS, DHL, etc.)

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alexander (Sasha) St. Clair
P.O. Box 980188
Park City UT 84098-0188

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
Alexander Sasha St. Clair
Application No.10/191,345
Filed: October 5, 2002
Title of Invention: Aqua/Atmos Propellor Jet

CORRECTED DECISION ON PETITION

This is a decision corrects the decision mailed on March 14, 2005.

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 19, 2004. The Notice set an extendable one month reply period of May 19, 2004 . An extension of time pursuant to 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 20, 2004. A Notice of Abandonment was mailed on December 15, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> delay in filing the

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (2) .

The petition fee is a prerequisite to treatment of the petition. Petitioner was incorrectly informed that he needed to submit $195.00 to complete the $250.00 petition fee. Instead petitioner is now required to submit an additional $55.00. A partial payment in the amount of $195.00 was received in the Office on April 7, 2005. On renewed petition, petitioner should submit the $55.00 difference. The petition has not been reviewed on its merits.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Alexander Sasha St. Clair
Application No.10/191,345
Filed: October 5, 2002
Title of Invention: Aqua/Atmos Propellor Jet

DECISION
ON PETITION

This is a decision on the renewed petition mailed on October 26, 2005.

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 19, 2004. The Notice set an extendable one month reply period of May 19, 2004 . An extension of time pursuant to 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 20, 2004. A Notice of Abandonment was mailed on December 15, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> delay in filing the

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). Furthermore, all communications from the Office will be addressed to the first named inventor, unless specific instructions to the contrary are supplied by the named inventor(s) or owner(s).

While an applicant may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is, therefore, encouraged to secure the services of a registered patent attorney or agent (i.e., registered to practice before the U.S. Patent and Trademark Office) to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution.

The Office cannot aid you in selecting a registered attorney or agent, however, we do have a publication which lists all the patent attorneys and agents who are registered to practice before the Office. The publication, "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office," may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. In addition, applicant may obtain this information: from the USPTO Internet Web Site [http: / /www.uspto.gov /]; by writing to the Commissioner of Patents and Trademarks, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313; by calling the Office of Enrollment and Discipline at (703) 306-4097; or, through the Patent Assistance Center toll free number, 1(800)786-9199.

A review of Office records reveals Michael L. Humiston is not licensed to practice before the U.S. Patent and Trademark Office. However, if Mr. Humiston is authorized to practice before the U.S. Patent and Trademark Office, a registration number should be provided on any future correspondence. Otherwise, a renewed petition signed by the inventor should be provided.

The petition has **not** been reviewed on its merits.

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

By mail: Mail Stop Petition
Commissioner for Patents

P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Alexander Sasha St. Clair
Application No.10/191,345
Filed: October 5, 2002
Title of Invention: Aqua/Atmos Propellor Jet

DECISION
ON PETITION

This is a decision on the renewed petition mailed on December 6, 2005.

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 19, 2004. The Notice set an extendable one month reply period of May 19, 2004 . An extension of time pursuant to 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 20, 2004. A Notice of Abandonment was mailed on December 15, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,

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

(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 this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more 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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner contends a reply to the Notice of Non-Compliant Amendment was mailed on May 14, 2004. Petitioner has also provided a copy of the response and an Express Mail label containing number ER259497245US.

Petitioner's arguments have been considered but they are not persuasive. A review of

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[2]See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

the evidence presented shows that the reply purportedly submitted on May 14, 2004 does not contain a certificate of mailing pursuant to 37 CFR 1.8.[4] The Express Mail Label presented on petition shows that the mail associated with the label was received in the Office on January 21, 2004. As such the Express Mail Label was used for the submission of the request for one month extension of time submitted on January 20, 2004. A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing. A delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990).

In the event petitioner submitted the May 14, 2004 reply via US Express Mail pursuant to 37 CFR 1.10, the mail label should be presented with any request for reconsideration.

Accordingly, petitioner has failed to provide sufficient arguments that warrant the finding of unavoidable delay within the meaning of 37 CFR 1.137(a).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee ($750.00 for small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and

---

[4] § 1.8 Certificate of mailing or transmission.
(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
www.uspto.gov

JOHN L. COSTLEY JR.
P.O. BOX 565
PALMETTO FL 34220-0565

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DEC 1 5 2009

OFFICE OF PETITIONS

In re Patent No. 6,922,886	:	
Issue Date: August 2, 2005	:	
Application No. 10/191,350	:	ON PETITION
Filed: July 6, 2002	:	
Title: Apt-1(Anode Placement Tool-Model 1)	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 22, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) of the above items.

With respect to item (3), petitioner submitted $700.00 towards the required $1,640.00 surcharge fee. Accordingly, an additional $940.00 is required. As stated above, a $400.00 petition fee is also required for any petition for reconsideration, bringing the total to $1,340.00.

Further, since the statement contained in the instant petition varies from the language required by 37 CFR 1.378(c) the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.378(c) and petitioner must notify the

Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

By hand: 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) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John L. Costley Jr.
P.O. Box 565
Palmetto FL 34220-0565

MAILED

JAN 27 2010

OFFICE OF PETITIONS

In re Patent No. 6,922,886	:	
Issue Date: August 2, 2005	:	
Application No. 10/191,350	:	DECISION ON PETITION
Filed: July 6, 2002	:	
Title: APT-1(Anode Placement Tool-Model 1)	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed December 29, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 3, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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)
6573481	2003-06-03	10191356	2002-07-08	HOME 0472 PUS1

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	/Stephanie M. Mansfield/	Date (YYYY-MM-DD)	2007-09-17
Name	Stephanie M. Mansfield	Registration Number	43773

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. 6573481
Issue Date: June 3,2003
Application No. 10191356
Filed: July 8,2002
Attorney Docket No. HOME 0472 PUS1

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

This is a decision on the electronic petition, filed September 17,2007,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 September 17,2007. 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.

#8

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

PATENT & TRADEMARK OFFICE
MAILED

NOV 2 0 2002

LICENSING & REVIEW

Legal Division
Millipore Corporation
80 Ashby Road
Bedford, MA 01730

In re Application of:
Kopaciewicz:
For Serial No. 10/191,364

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: July 8, 2002

For: **PATTERNED COMPOSITE MEMBRANE AND STENCILING METHOD FOR THE MANUFACTURE THEREOF**

This is a decision on the REQUEST FOR RECONSIDERATION filed September 4, 2002, responding to the communication (FORM PTOL-456) mailed August 23, 2002.

The request has been **GRANTED**. No further action regarding this matter is required.

Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
Patent Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 11 2005

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

MILLIPORE CORPORATION
290 Concord Road
Billerica, Massachusetts 01821

In re Application of
William KOPACIEWICZ
Serial No. : 10/191,364
Filed : 8 July 2002
Attorney Dkt No. : MCA-550 US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181, filed on 07 September 2004, to request reconsideration 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 8, 2002 with 17 claims.

A requirement for restriction was mailed to applicants on February 9, 2004, requiring the restriction of the 17 claims to one of five inventions under 35 U.S.C. 121. The claims were restricted as follows:

Group I, Claims 1-6, drawn to a patterned composite, classified in class 435, subclass 7.1;
Group II, Claim 7, drawn to method of extracting a predetermined biopolymeric species from a solution, classified in class 422, subclass 119;
Group III, Claims 8-11, drawn to a patterned composite, classified in class 436, subclass 523,
Group IV, Claim 12, drawn to a method of extracting an object of predetermined size from a fluid phase, classified in class 436, subclass 151; and
Group V, Claim 13-17, drawn to a method of manufacture of a patterned membrane, classified in class 422, subclass 49.

In response to this restriction requirement applicants elected with traverse Group I, claims 1-6, drawn to a patterned composite. Applicants' traversal of the restriction requirement was found non-persuasive by the examiner and applicants filed the present petition in response to this finding.

DISCUSSION

The application, file record and petition filed 7 September 2004 has been considered carefully.

Applicants petition under 37 C.F.R. 1.144 and 1.181, to review the FINAL restriction requirement maintaining that the "five way" restriction requirement is "unreasonable" and should be withdrawn.

Applicants traverse the restriction requirement on a number of different bases. Applicants submit that the reasons for the restriction of the claims into the previous five different groups appears to be formulaic, grounded seemingly on isolated textual differences in the independent claims and the claims of the respective groups can be conveniently examined without serious burden.

Applicants further argue that MPEP 808.01 and paragraph 8.20.02, relied upon by the examiner, do not strongly support the examiner's restriction requirement, as 808.01 equates the term "unrelated" with the factual finding that the claimed inventions are not connected in design operation or effect under the disclosure of the particular application.

Finally, applicants cite MPEP 806.03, which states:
"Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

Applicants argue that the "patterned composite membrane made in accordance with Example 1 constitutes a "single disclosed embodiment" and that this "single disclosed embodiment" is encompassed by each of the independent claims 1, 7, 8, 12 and 13, and thus restriction should not be required.

Applicants' complete argument has been considered and is found to be persuasive in part with respect to the rejoining of previous groups I and III, drawn to a patterned composite and the rejoining of groups II and IV drawn to a method for extracting a predetermined biopolymeric species from a solution. Thus the traversal has resulted in the following restriction grouping:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6 and 8-11, drawn to a patterned composite, classified in class 435, subclass 7.1.

II. Claims 7 and 12, drawn to a method for extracting a predetermined biopolymeric species from a solution, classified in class 422, subclass 119.

III. Claims 13-17, drawn to a method of manufacture of a patterned membrane, classified in class 422, subclass 49.

Inventions I and II are related as product and process of use. 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 (MPEP § 806.05(h)). In the instant case the product of invention I can be used in a materially different processes of using that product, such as detecting or measuring of biopolymeric species in the test samples.

Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product of invention I can be made by a materially different process such as attaching a substantially planar support to a preformed porous material comprising a plurality of discrete binding sites arranged in a predetermined pattern, said porous material comprising a plurality of particles dispersed in a polymeric matrix.

Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). The feature of providing discrete non-contiguous-deposits of porous material, each discrete deposit of porous material having a porosity and microstructure capable of selectively admitting and retaining an object of predetermined size in invention II, is not required by the claims of group III. The feature of overlaying a mask onto said substantially planar support, said mask comprising a sheet material with at least one opening there through, the opening having dimensions sufficient for the facilitated or unfacilitated passage of said curable polymeric solution there through in invention III, is not required by the claims of group II. Therefore, inventions II and III are patentably distinct methods.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for one group is not required for the other, restriction for examination purposes as indicated is proper.

It is noted that applicants elected the product of Group I. If claims in Group I are found directed to an allowable product, then process claims in Groups II and II, which are directed to processes of making or using the patentable product, respectively, previously withdrawn from consideration as a result of a restriction requirement, would be rejoined pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86; see also M.P.E.P.. 821.04, *In re* Ochiai, and *In re* Brouwer). Since process claims would be rejoined and fully examined for patentability under 37 C.F.R.. 1.104, Applicants are instructed to amend said claims as deemed necessary according to rejections made against the elected claims.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.141 and 1.181 to request reconsideration of the restriction requirement is **GRANTED IN PART**. Claims 8-11 will be examined together with elected claims 1-6. The method of claims 7 and 12 are rejoined to each other.

The application will be forwarded to the examiner to take the appropriate action on claims 1-6 and 8-11, in response to the above petition decision.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

020305

Thomas Frederick Wnorowski
16646 MARY GRACE LANE
ROMULUS MI 48174

FEB 18 2005

In re Application of:
Thomas F. Wnorowski
Serial No.: 10/191,375
Filed: July 8, 2002

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 2, 2004 to withdraw the holding of abandonment under 37 C.F.R. § 1.181.

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

The application was held abandoned for failure to timely file a response to the Office action mailed on December 24, 2003. A Notice of Abandonment was mailed on September 22, 2004.

Petitioner asserts that the Office action mailed December 24, 2003 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 practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The general allegation that perhaps the Office action was lost in the U.S. Postal System is not sufficient. While petitioner may not keep a record showing receipt of all incoming mail, petitioner must attest that upon receipt of the Office action that it would have been placed in a file or specific location and that a search of that file and/or location indicates that the Office action was not received. Petitioner should be specific about the affirmative steps taken regarding the receipt of mail and safekeeping of correspondence from the Office.

A further review of the file record reveals that a change of address was filed on August 2, 2004. However, it is not clear when petitioner's address changed and, accordingly, whether or not the Office was promptly informed or if the Office action was mailed to petitioner's old address. M.P.E.P. § 601.03 states, in part:

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number.

For the above-stated reasons, the petition to withdraw the holding of abandonment is denied.

However, petitioner may file a request for reconsideration of this decision. Such request must state how the mail from the Patent and Trademark Office is received and filed by petitioner, and, if the mail was put in a file and/or specific location, that a search of such file and/or specific location indicates that the Office action of December 24, 2003 was not received. Also, because the record indicates that petitioner has relocated, petitioner must state that during the period from December 24, 2003 to mid-January 2004, he personally received mail at the former address in Ann Arbor, Michigan where the Office action was mailed. Petitioner must also include the specific date of the address change and whether or not this address change resulted in the Office action becoming lost.

The booklet "General Information Concerning Patents" for use by applicants contemplating the filing or prosecution of their own applications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The booklet is also available from the USPTO Web page at: http://www.uspto.gov.

Any request for reconsideration of this decision must be submitted within two months of the mail date of this decision in order to be considered timely.

Any inquiry concerning this petition should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Patent No. 6,971,582	:	
Issued: December 6, 2005	:	
Application No. 10/191,437	:	ON PETITION
Filed: July 10, 2002	:	
Attorney Docket No. 1349.1077	:	

This is a decision on the petition under 37 CFR 1.182, filed May 31, 2007, 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 the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-273-9756)

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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

DEC 20 2005

OFFICE OF PETITIONS

In re Patent No. 6,891,405 :
Issued: May 10, 2005 :
Application No. 10/191,455 : DECISION REGARDING PTA
Filed: July 10, 2002 :
Atty. Dkt. No.: SON-2446 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed May 17, 2005.

The request for reconsideration of patent term adjustment (PTA) under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application issued as U.S. Pat. No. 6,891,405. The patent issued with a PTA of 22 days. The instant application under 37 CFR 1.705(d) for PTA was timely filed within two months of the issue date of the patent on May 17, 2005. Applicants argue that the correct period of adjustment is 148 days rather than 22 days.

A review of the application history reveals that at the time of issuance of the patent, the patent was entitled to an adjustment of 28 days.

In accordance with 37 CFR 1.702(a)(4), an adjustment of 168 days was attributed to the Office for failure to timely issue the patent within four months of issue fee payment. There were no further Office delays.

The Office errantly entered November 13, 2002 as the date a proper response to the Notice to File Missing Parts, mailed August 7, 2002, was received rather than October 30, 2002, the date the response was in fact filed.

The adjustment of 168 days was reduced 120 days for failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(10). The miscellaneous paper submitted July 23, 2004 was a "REQUEST FOR INITIALED AND DATED FORM PTO-SB08 FILED WITH AN IDS FILED, JANUARY 15, 2004." Submission of an amendment under 37 CFR 1.312 or other paper after a Notice of Allowance

has been given or mailed is deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704. This is particularly the case when applicants could have made the request prior to the mailing of the Notice of Allowance at the time of submission of the RCE.

Accordingly, at the time of time of issuance of the patent, the adjustment of 168 days for Office delays was reduced 169 days for applicants' failure to engage in reasonable efforts to conclude prosecution, yielding zero days of PTA at the time of issuance.

The Office acknowledges receipt of the required application fee of $200.00.

Applicants are given one (1) month to request reconsideration of this decision. The period of time for reconsideration is not extendible under 37 CFR 1.136(a) or 37 CFR 1.136(b).

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by ~~zero~~ twenty eight (28) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

Kery A. Fries

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

Enclosure: Draft Certificate of Correction

OIPE IAP40
JAN 20 2006
PATENT & TRADEMARK OFFICE

Docket No.: SON-2446
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kazuhiro Fujimura et al.

Application No.: 10/191,455 | Confirmation No.: 7048

Filed: July 10, 2002 | Art Unit: 2816

For: VARIABLE GAIN AMPLIFIER | Examiner: H. Nguyen

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION

MS Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Decision on Petition mailed on December 20, 2005.

The Decision notes an adjustment of 168 days that was attributable to the Office for failure to timely issue the patent within four months of the issue fee payment. (Decision at page 1).

Nevertheless, the Decision contends that the adjustment of 168 days was reduced 120 days for failure to engage in reasonable efforts to conclude prosecution under 37 C.F.R. §1.704(c)(10). (Decision at page 1). Specifically, the Decision contends that the miscellaneous paper submitted July 23, 2004 was a "REQUEST FOR INITIALED AND DATED FORM PTO-SB08 FILED WITH AN IDS FILED, JANUARY 15, 2004." (Decision at page 1). The Decision then concludes that submission of an amendment under 37 C.F.R. §1.312 or other paper after a Notice of Allowance has been given or mailed is deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 C.F.R. §1.704. (Decision at page 1 to page 2).

An Information Disclosure Statement has been filed on January 15, 2004.

The Request for Continued Examination (RCE) and One-Month Extension had been filed on March 31, 2004, subsequent to the filing of Information Disclosure Statement.

The Notice of Allowance of July 12, 2004 issued as the *next* Office Action on the merits following the filing of the Request for Continued Examination (RCE).

U.S. Patent and Trademark (USPTO) practice and procedures dictate the Information Disclosure Statement to be reviewed for compliance with the requirements of 37 C.F.R. §1.98 and 37 C.F.R. §1.98 as discussed in M.P.E.P. §609.04(a) and M.P.E.P. §609.04(b). Applicant will be notified of compliance and noncompliance with the rules as discussed in M.P.E.P. §609.05(a) and M.P.E.P. § 609.05(b). See M.P.E.P. §609.05.

However, the Notice of Allowance ***failed*** to include an indication that the Information Disclosure Statement filed on January 15, 2004 had been reviewed.

Accordingly, the "Request for Initialed and Dated Form PTO-SB08 Filed With an IDS Filed, January 15, 2004" timely advised the USPTO that:

- A Notice of Allowance was issued by the PTO on July 12, 2004 in connection with the above-identified application.
- Upon our final review of the file before payment of the issue fee, it was noted that the initialed Form PTO-SB08 accompanying the Information Disclosure Statement filed on January 15, 2004 *has not been considered and returned*.

The "Request" included a request that an initialed copy of the PTO-SB08 Form be sent as soon as possible to evidence consideration of the references by the Examiner. For the convenience of the Examiner, a copy of the Information Disclosure Statement as filed on January 15, 2004, along with a date stamped and returned postcard as proof of filing, was enclosed with the "Request".

The Decision concludes that applicants could have made the request prior to the mailing of the Notice of Allowance at the time of the submission of the RCE.

Please note that pursuant to USPTO practice and procedures, information filed in the application in compliance with the content requirements of 37 C.F.R. §1.98 before the filing of a RCE ***will be considered by the examiner after the filing of the RCE***. M.P.E.P. § 609.02(B)(3).

As noted by the Examiner, the Notice of Allowance was mailed in response to the RCE. As further noted hereinabove, the Information Disclosure Statement had been filed prior to the filing of the RCE and was present in the application when the Notice of Allowance had been issued. USPTO practice and procedures dictated an indication by the Examiner within the Notice of Allowance that the Information Disclosure Statement had been considered, which the Examiner had failed to do. This failure by the Examiner to consider the Information Disclosure Statement became apparent only after the mailing of the Notice of Allowance.

Accordingly, please adjust the original term of U.S. Patent No. 6,891,405 from an additional 22 days to an additional 148 days.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: January 20, 2006

Respectfully submitted,

By _____

Ronald P. Kananen
Registration No.: 24,104
RADER, FISHMAN & GRAUER PLLC
1233 20th Street, N.W.
Suite 501
Washington, DC 20036
(202) 955-3750
Attorney for Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 16 2008

OFFICE OF PETITIONS

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

In re Application of :
Joseph Reid Henrichs :
Application No. 10/191,459 :
Filed: July 9, 2002 :
Attorney Docket No.

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed August 9, 2007.

The petition is DISMISSED.

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

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed December 16, 2004. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on March 17, 2005. A Notice of Abandonment was mailed on June 24, 2005.

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

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

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

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

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

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

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).<
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
>
> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
>
> 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for the more than two year delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

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

By mail:

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: JUL 14 2005

rvk
Paper No. ___

In re application of:
Ralph M.Buono et al
Serial No.: 10/191,461
Filed: July 10, 2002
For: METHOD FOR EXTRUDING A COMPRESSIBLE LAYER ON A PRINTING SLEEVE :

DECISION ON PETITION

This is a response to the PETITION TO REVIVE, filed April 15, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 18, 2005, for failure to timely file a proper response to the Office letter dated August 24, 2004 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter on September 21, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of August 24, 2004 in a timely manner. The evidence provided includes: 1) a copy of the Response to the Restriction Requirement of August 24, 2004 mailed September 21, 2004 (Exhibit B); 2) a copy of an executed Certificate of Mailing by First Class Mail showing the date of deposit of September 21, 2004 (Exhibit A); and 3) a Declaration of Steven E. Smith, a paralegal of the Firm of Dougherty, Clements, Hofer & Bernard, stating that he assembled and filed the Response on the date of his Certificate of Mailing (Exhibit C).

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated September 21, 2004 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

RALPH H. DOUGHERTY
DOUGHERTY, CLEMENTS & HOFER
1901 ROXBOROUGH ROAD, SUITE 300
CHARLOTTE, NC 28211

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Mark G. Kachigian
HEAD, JOHNSON & KACHIGIAN
228 West 17th Place
Tulsa, Oklahoma 74119

MAILED

APR 12 2004

Technology Center 2100

In re Application of:
Madduri et al.
Application No. 10/191,468
Filed: July 09, 2002
For: METHOD, APPARATUS AND ARTICLE OF MANUFACTURE TO AGGREGATE AUTOMATED TRANSACTION PROCESSION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 26, 2004.

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

The request filed March 26, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Raymond D. Norton, Esq.
WINSTEAD, SECHREST AND MINICK, P.C.
406 South Boulder, Suite 450
Tulsa, Oklahoma 74103

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.
10/191,496	07/10/2002	Chao-Chi Wang	TAIE 141	3956

7590 05/06/2004

Rabin & Berdo, P.C.
Suite 500
1101 14th Street
Washington, DC 20005

EXAMINER
PAUMEN, GARY F

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 05/06/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/191,496			

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

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

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

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

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

☐ No reply has been received.

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

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

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

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

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

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

☐ No corrected drawings have been received.

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

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

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

☐ The reason(s) below: _____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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WASHINGTON, D.C. 20231
www.uspto.go

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

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

Applicant: Lee et al.
Appl. No.: 10/191,548
Filing Date: July 10, 2002
Title: PROTECTION SYSTEM AND METHOD FOR RESILIENT PACKET RING (RPR) INTERCONNECTION
Attorney Docket No.: TR-067
Pub. No.: US 2003/0012129 A1
Pub. Date: January 16, 2003

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

The request is DISMISSED.

The instant request is that the application be republished because the second listed inventor's middle and family name are inverted on the front page of the publication and the assignee information is missing from the front page of the publication.

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

The error in the second inventor's name, in which his middle name and last name are reversed 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, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error in the inventor's name has been corrected in the Office's system and a Corrected Filing Receipt is enclosed.

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

---

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

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

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

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

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination in due course.

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

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

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/10/08

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/191548 Patent No: 7274656 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Applicant indicate "Col. 14, line 3, "in claim 13" is corrected to read as --in claim 11--". However, col. 14, line 8 has been corrected as "in claim 12". ~~Also~~ Applicant indicate "Col. 15, line 15". There is no column 15.

CHIRAG G. SHAH
SUPERVISORY PATENT EXAMINER

SPE

2616
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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December 01, 2008

Victoria Donnelly
P. O. Box 24001
Hazeldean RPO
Kanata, Ontario, Canada, K2M 2C3

Patent No: 7,274,656 B2
Application No: 10/191548
Applicant: Lee, B. J. et al.
Issued: September 25, 2007
Title: **PROTECTION SYSTEM AND METHOD FOR RESILIENT PACKET RING (RPR) INTERCONNECTION**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

The patent is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. Per examiner "Applicant indicate col. 14 line 8 in claim 13 is corrected to read as in claim 11. However, col. 14, line 8 has been corrected as in claim 12". Applicant indicate col. 15, line 15. There is no column 15.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary F. Diggs
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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NOV 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takashi Kawai et al :
Application No. 10/191,564 :
Filed: July 10, 2002 :
Attorney Docket No. 00862.001881.1

This is a decision on the petition, filed November 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 September 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter 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.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 6922679
Issue Date: July 26,2005
Application No. 10191579
Filed: July 8,2002
Attorney Docket No. 3762P2348

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

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

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6922679	2005-07-26	10/191,579	2002-07-08	3762P2348

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 D. Moy/	Date (YYYY-MM-DD)	2010-06-10
Name	Jeffrey D. Moy	Registration Number	39307

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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Alexandria, VA 22313-1450
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Paper No. 13

CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

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JUN 2 5 2004

OFFICE OF PETITIONS

In re Application of	:
Anton Scherer et al	:
Application No. 10/191,613	: DECISION GRANTING PETITION
Filed: July 9, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. LP/V-32070 CVE77	:

This is a decision on the petition, filed June 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 2004 (certificate of mailing date of June 2, 2004) in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 3728 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental Information Disclosure Statement.

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

---

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

PATENT
ATTY. DOCKET NO.: 31173691-000004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Wakefield et al.	§	Art Unit: 1764
Serial No.:	10/191,617	§	
Filed:	July 9, 2002	§	Examiner: Ridley, Basia Anna
Title:	Clean Gas Fuel Made by the Gasification of Coal	§	

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

CERTIFICATE OF MAILING 37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail on the Date of Deposit indicated below, and in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on 9/25/06.

Signature: _____
(Kathleen Byrd)

Dear Sir:

PETITION FOR EXPEDITED HANDLING OF UTILITY PATENT APPLICATION BASED UPON AGE OF INVENTOR

Applicants respectfully request that the above-referenced application be made special and advanced out of turn for examination pursuant to 37 C.F.R. 1.102(c)(1). Specifically, one of the named inventors of this application, Robert J. Jackson, is currently eighty-two (82) years old and will soon be eighty-three (83) years of age. As evidenced by the attached declaration, Mr. Jackson was born on October 1, 1923.

In light of the advanced age of this inventor and the anticipated need of counsel to confer with and to seek the assistance of Mr. Jackson in prosecuting this application, Applicants respectfully request the Commissioner give this application expedited handling.

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
~~OCT 1 5 2006~~

10-18-6

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE JC46
MAY 19 2003
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MARK SF CLARKE
1111 NORTH BRISTOL COURT
LEAGUE CITY TX 77573

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Pavel Nikolaev, Sivaram Arepalli,
Mark S.F. Clarke, Daniel L.
Feeback
Application No. 10/191,631
Filed: July 9, 2002
Title: ISOLATION AND PURIFICATION
OF SINGLE WALLED CARBON NANOTUBE
STRUCTURES

LETTER

RECEIVED
JUN 09 2003
TC 1700

Dear Mr. Feeback:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Wayne M. Kennard
Hale and Dorr LLP
Boston, Massachusetts 02109
(617)526-6183

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JUN 03 2003
OFFICE OF PETITIONS

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Paper No. 6

HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of Nikolaev, et al. Application No. 10/191,631 Filed: July 9, 2002 Attorney Docket No. 112924.120	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 6, 2003 (Certificate of Mailing dated February 3, 2003).

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

The above-identified application was filed on July 9, 2002, without a fully executed oath or declaration.[1] Accordingly, on August 12, 2002, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring the signatures of joint inventors Mark S.F. Clarke and Daniel L. Feeback, together with a surcharge for the late filing of a fully executed declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a four month extension of time. A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, attorney Wayne M. Kennard included, *inter alia*, the following supporting evidence: (1) a declaration of facts from

---

[1] The declaration submitted on filing was executed by joint inventors Pavel Nikolaev and Sivaram Arepalli.

Wayne M. Kennard; (2) a copy of a cover letter addressed to Feeback, dated July 10, 2002 and transmitting the application papers; (3) copy of a cover letter to Steven Benson, attorney for Clarke, dated July 10, 2002 and transmitting the application papers; and (4) a copy of a letter from attorney Benson, dated August 7, 2002, in which he reiterated the stance previously set forth that Clarke would not sign the declaration for the above identified application.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed on July 9, 2002 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

The inventorship of the above-identified application appears to be in dispute. The Patent and Trademark Office is not the forum for resolving disputes between assignees as to ownership rights. An assignment of the entire right, title, and interest in the invention has not been recorded. Petitioner has failed to establish that it is the assignee of the entire interest, but petitioner established ownership interest sufficient to allow it to act as the Rule 47(b) applicant.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

PET DEC

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

td

Mailed: MAY 14 2004

In re application of	:	
Walter H Ohrbom et al.	:	DECISION ON
Serial No. 10/191,643	:	PETITION
Filed: July 9, 2002	:	

For: POWDER COATINGS WITH IMPROVED COMPATIBILITY AND APPEARANCE

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed October 23, 2003 and made final in the office action mailed February 11, 2004. This is also a decision on the PETITION UNDER 37 CFR 1.181 AS TO WHETHER APPLICANT'S AMENDMENT FILED ON JANUARY 23, 2004 WAS NOT FULLY RESPONSIVE.

On October 23, 2003, a three-way restriction requirement was made by the examiner. The examiner took the position that the groups I and II were related as mutually exclusive species in an intermidate-final product relationship. Applicants traversed the restriction requirement in a response filed January 23, 2004. The examiner made the requirement final in an office action mailed February 11, 2004 and made the determination that Applicant's response was not fully responsive.

On March 3, 2004, the instant petition under 37 CFR 1.144 was timely filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

A petition under 37 CFR 1.181 was concurrently filed to request review of the holding that the amendment filed January 23, 2004 was not fully responsive.

DECISION

Sections 806.04(b) and 806.05(c) of the MPEP state in part:

806.04(b)

The intermediate and final product must have a mutually exclusive species relationship and as with all species restrictions, must be patentably distinct.
Typically, the intermediate loses its identity in the final product.
Additionally, the intermediate must be shown to be useful to make other than the final product. The examiner must give an example of an alternative use but need not provide

documentation. Applicant then has the burden to prove or provide a convincing argument that the intermediate does not have the suggested use.

806.05(c) Criteria of Distinctness for Combination, Subcombination, or Element of a Combination
In order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated.
To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search. See MPEP § 808.02.
The inventions are distinct if it can be shown that a combination as claimed:
(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in other and different relations.
When these factors cannot be shown, such inventions are not distinct.

The restriction requirement will be addressed first. The examiner has taken the position that the groups of claims are related as intermediate - final product. However, this does not appear to be a proper characterization of the relationship between the groups of claims. As stated above, "Typically, the intermediate loses its identity in the final product." In the instant application, this does not appear to occur. From the example in the specification on page 12, the components are dry blended and then extruded to produce a powder coating. The final product is merely an admixture of the individual components claimed in claim 1 and the additional materials found in claim 17. No evidence has been presented by the examiner that the additional components in the dependent claim would alter or destroy the components claimed in claim 1 as would be required for a holding that the groups are related as intermediate - final product.

The proper relationship between the two groups is Combination - Subcombination. In the instant case, the combination as claimed requires the particulars of the subcombination. Therefor, distinctness can not be shown between the two groups and restriction is not proper.

Next, the issue of whether the amendment filed on January 23, 2004 was fully responsive. Originally filed claim 1 used the term "comprising" which allows for additional components to be present. The examiner has interpreted original claim 1 to comprise **only** the acid-functional crosslinker (a) and film-forming material (b). This is an improper interpretation of the claim in that the claim was not a closed claim. The amendment filed on January 23, 2004 merely added a limitation that some additional components are optionally included. If one were to exclude the presence of the optional materials, the scope of the amended claim would be identical to the claim as originally filed and examined by the examiner. Therefore, the examiner was incorrect in stating the amended claims are distinct from the originally filed claims. For this reason and because the restriction requirement was improper, the amendment on January 23, 2004 was fully responsive.

Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.** Additionally, the amendment filed by Applicants on January 23, 2004 is deemed to be fully responsive and the petition under 37 CFR 1.181 is also **GRANTED.** The application is being forwarded to the examiner to rejoin the non-elected claims and preparing a new non-final office action addressing all pending claims.

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

BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD MI 48034-2442

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AUG 26 2004

PJR

In re Application of
Walter H. Ohrbom et al

Serial Number: 10/191,643 :
Filed: July 9, 2002 : DECISION ON
: PETITION

For: Powdered Coatings with Improved
Compatibility and Appearance

This is in response to the petition filed, March 9, 2004 requesting reconsideration of the restriction requirement in the above-identified application. The restriction requirement is based on intermediate-final product relationship. Applicant argues that the scope of claim1 utilizing "comprising" (open) language is such that it necessarily allows for the inclusion of additional constituents as set forth in Claim 17. Applicant further argues that the characterization of groups I and II as mutually exclusive species in an intermediate-final product relationship is improper and that the appropriate standard would be combination-subcombination.

Analysis and Decision

The examiner's position both in the original office action of October 23, 2003 and again in the office action of February 11, 2004 sets forth that the addition of any further item to the composition of claim 1 "would irreversibly alter the physical and chemical characteristics of the powder coating of the claims of Group 1. This is the appropriate standard for the application of the one-way test required in the intermediate-final product requirement. Petitioner has provided no evidence or scientific reasoning to refute the position set forth by the examiner. As such, the restriction requirement is found to be proper and the petition is **Denied.**

JMStone

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

Harness, Dickey & Pierce, P.L.C.
P.O.Box 828
Bloomfield Hills, Michigan 48303

OIPE JC187 JAN 1 2 2004 PATENT & TRADEMARK OFFICE

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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 AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/191,644
Filing Date	July 9, 2002
First Named Inventor	Young Sik Nam et al.
Art Unit	UNASSIGNED
Examiner Name	UNASSIGNED
Attorney Docket Number	5008-1-007

T : **Commissioner for Patents**
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 33942

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The foreign law firm from which this case was originated has been non-responsive in both to our instruction and payments for the last two years.

CORRESPONDENCE ADDRESS

1. [x] 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					
Address					
Address					
City		State		Zip	
Country					
Telephone				Fax	

Name	Steve Cha		
Signature		Registration No.	44,069
Date	1/8/04	Telephone No.	201-226-9245

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 require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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OFFICE OF PETITIONS

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

In re Application of	:	
Csaba Andras Moritz	:	
Application No. 10/191,646	:	DECISION GRANTING PETITION
Filed: July 9, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14251-002001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 19, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2191 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Csaba Andras Moritz	:	
Application No.: 10/191,646	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No.: 14251-002001	:	

This is a decision on the petition, filed August 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 July 2, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2191 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.*

Pet

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No.

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OFFICE OF PETITIONS

In re Application of
Salman Akram et al
Application No. 10/191,654
Filed: July 8, 2002
Attorney Docket No. 2269-4301.1US

ON PETITION

This is a decision on the petition, filed May 13, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 6, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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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

OCT 19 2005

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Thomas W. Cook
Thomas Cook Intellectual Property Attorneys
3030 Bridgeway, Suite 425
P.O. Box 1989
Sausalito, CA 94965

Paper No. 7

In re Application of
CARDINALE, SALVATORE J.
Appl No.: 10/191,671
Filed: July 08, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed June 23, 2005. In view of the statements in the letter of June 27, 2005, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated October 14, 2003.

In view of the above, the Notice of Abandonment mailed June 23, 2005 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 082304
DEC 28 2004

Brian Roffe, ESQ
11 Sunrise Plaza, Suite 303
Valley Stream, New York 11580-6111

In re Application of:	:	
David S. Breed, et al.	:	DECISION ON PETITION
Serial No.: 10/191,692	:	TO MAKE SPECIAL
Filed: July 9, 2002	:	
Attorney Docket No.: **ATI-279.1**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed October 14, 2003, to make the above-identified application special.

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

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

The petition includes a passport from David S. Breed showing that the 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 Edward Westin at (571) 272-1638.

Edward Westin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 1 8 2002

OFFICE OF PETITIONS

KIRK M. NUZUM
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of :
John Peery :
Application No. 10/191,700 :
Filed: July 8, 2002 :
Attorney Docket No. 000952-100 :

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 3700.

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

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Application of
Rohan Lenard et al
Application No. 10/191,716
Filed: July 9, 2002
Attorney Docket No. 013217.0185PTUS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 16, 2009.

The request is **APPROVED**.

A review of the file record indicates that James M. Graziano: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, James M. Graziano has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James M. Graziano
Patton Boggs LLP
1801 California Street, Suite 4900
Denver, CO 80202-2613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

DEC 0 7 2004

TECHNOLOGY CENTER 3600

BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK NY 10022

In re application of Dennis O'Brien Application No. 10/191,737 Filed: July 8, 2002 For: METHODS AND SYSTEMS FOR PROVIDING AN INSURANCE POLICY WITH AN INFLATION PROTECTION OPTION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on July 19, 2002, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above.

Regarding item (B), the petition fails to include a statement that applicant is willing to elect without traverse should a restriction or election be required.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

RAR: 12/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB - 1 2005

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FEB - 1 2005
OFFICE OF THE DIRECTOR
TC 3600

BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 Third Avenue
New York, NY 10022

In re application of : **DECISION ON PETITION**
Dennis O'Brien : **TO MAKE SPECIAL**
Application No. 10/191,737 : **(ACCELERATED**
Filed: July 8, 2002 : **EXAMINATION)**
For: METHODS AND SYSTEMS FOR PROVIDING AN INSURANCE POLICY WITH AN INFALATION PROTECTION OPTION

This is in response to the renewed petition filed on January 10, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-2121

SNM/jwk: 01/25/05

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

ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of	:
Mark Bryers et al	:
Application No. 10/191,742	: DECISION GRANTING STATUS
Filed: July 8, 2002	: UNDER 37 CFR 1.47(A)
For: CONTENT SERVICE AGGREGATION	:
SYSTEM	:

This is in response to the petition under 37 CFR 1.47(a), filed November 27, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID HASS
1745 NANTUCKET CIRCLE
APT. #268
SANTA CLARA, CA 95054

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of
Bryers; Ganesan; Gruner; Hass; Hathaway; Penwar; Ramirez; Rashid; Vilas; Zaidi; Lee; Nguyen; Phillips; Zhou; Spurrier; Ramanoorthi; and Freed
Application No. 10/191,742
Filed: July 8, 2002
For: CONTENT SERVICE AGGREGATION SYSTEM

Dear Mr. Hass:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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FEB 27 2003

OFFICE OF PETITIONS

RAMESH PANWAR
3544 ROCCA COURT
PLEASANTON, CA 94588

In re Application of
Bryers; Ganesan; Gruner; Hass; Hathaway; Penwar; Ramirez; Rashid; Vilas; Zaidi; Lee; Nguyen; Phillips; Zhou; Spurrier; Ramanoorthi; and Freed
Application No. 10/191,742
Filed: July 8, 2002
For: CONTENT SERVICE AGGREGATION SYSTEM

Dear Mr. Panwar:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAZAR ZAIDI
1525 TAINAN DRIVE
SAN JOSE, CA 95131

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of
Bryers; Ganesan; Gruner; Hass; Hathaway; Penwar; Ramirez; Rashid; Vilas; Zaidi; Lee; Nguyen; Phillips; Zhou; Spurrier; Ramanoorthi; and Freed
Application No. 10/191,742
Filed: July 8, 2002
For: CONTENT SERVICE AGGREGATION SYSTEM

Dear Mr. Zaidi:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

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FEB 27 2003

OFFICE OF PETITIONS

In re Application of	:	
Elango Ganesan et al	:	
Application No. 10/191,746	:	DECISION GRANTING STATUS
Filed: July 8, 2002	:	UNDER 37 CFR 1.47(A)
For: CONTENT SERVICE AGGREGATION	:	
SYSTEM CONTROL ARCHITECTURE	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 29, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2183 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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FEB 27 2003

OFFICE OF PETITIONS

NAZAR ZAIDI
1525 TAINAN DRIVE
SAN JOSE, CA 95131

In re Application of
Ganesan; Penwar; Lee; Nguyen; Phillips; Zhou; Spurrier; Ramanoorthi; Freed; Bryers; and Zaidi
Application No. 10/191,746
Filed: July 8, 2002
For: CONTENT SERVICE AGGREGATION SYSTEM CONTROL ARCHITECTURE

Dear Mr. Zaidi:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

RAMESH PANWAR
3544 ROCCA COURT
PLEASANTON, CA 94588

In re Application of
Ganesan; Penwar; Lee; Nguyen; Phillips; Zhou; Spurrier; Ramanoorthi; Freed; Bryers; and Zaidi
Application No. 10/191,746
Filed: July 8, 2002
For: CONTENT SERVICE AGGREGATION SYSTEM CONTROL ARCHITECTURE

Dear Mr. Panwar:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
ALLEN M. LO
JUNIPER NETWORKS INC
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 8

PAUL D. BIANCO
FLEIT KAIN GIBBONS GUTMAN & BONGINI
601 BRICKELL KEY DRIVE, SUITE 404
MIAMI, FL 33131

COPY MAILED

JAN 09 2003

OFFICE OF PETITIONS

In re Application of :
Peter Bonutti :
Application No. 10/191,751 :
Filed: July 8, 2002 :
Attorney Docket No. 780-A02-012 :

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 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Sep-06

Paper No. 7

LAW OFFICE OF JOHN L. ISAAC
7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

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SEP 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	ON PETITION
Application No. 10/191,772	:	
Filed: 9 July, 2002	:	
Attorney Docket No. 7016.02.04A	:	

This is a decision on the petition filed on 26 April, 2006, under 37 CFR 1.137(b).[1]

The petition is **dismissed**.

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

The application became abandoned on 23 October, 2002, for failure to timely file a response to the Notice to File Missing Parts of

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

Nonprovisional Application mailed on 22 August, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 30 December, 2003.

The petition lacks item (1). A review of Office financial records reveals that petitioners did not include sufficient funds for the claims in excess of 20. Specifically, an additional $243.00 is due. As patent and trademark fees are required to be paid in advance, the petition as filed does not include a complete and proper reply. Any renewed petition filed must be accompanied by the proper fee.

Petitioners should verify the proper fees due by checking the USPTO website prior to filing a renewed petition, as fees are subject to change without further notice.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW.Dec-06

Paper No. 9

LAW OFFICE OF JOHN L. ISAAC
7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

COPY MAILED

DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	ON PETITION
Application No. 10/191,772	:	
Filed: 9 July, 2002	:	
Attorney Docket No. 7016.02.04A	:	

This is a decision on the renewed petition filed on 26 September, 2006, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

The application became abandoned on 23 October, 2002, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 22 August, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 30 December, 2003. The petition filed on 26 April, 2006, was dismissed on 5 September, 2006.

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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)).

Petitioners state, *inter alia*, that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

The record does not necessitate a finding that the delay between 23 October, 2002, and 26 September, 2006, was not unintentional.

Rather, the Patent and Trademark Office is relying on petitioners' duty of candor and good faith and accepting the statement that the entire delay in filing the required reply and until the filing of the petition was unintentional.[2]

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] 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 fact and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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Richard E. Gemache
WEINGARTEN, SCHURGIN, GAGNEBIN &
LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109

MAILED

DEC 04 2006

Technology Center 2100

In re Application of:
John Jeffrey Van Dyke
Appl. No.: 10/191,788
Filed: July 9, 2002
For: COFERENCING ARCHITECTURE EMPLOYING MEDIA SERVERS AND ENHANCED SESSION INITIATION PROTOCOL

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 03 July 2006, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the affidavits of John Jeffrey Van Dyke and Andy Spitzer under 37 CFR 1.131 submitted on 19 December 2005 and submitted on 22 June 2006 be expunged from the record. Petitioner states that the information contains materials that are subject to Proprietary materials which have not been made public. 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 identified documents are 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.

The identified documents are currently not available for public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/191,788	07/09/2002	John Jeffrey Van Dyke	SNSH-006XX	6677

207 7590 04/17/2009
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

EXAMINER
WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
04/17/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 16 2009

TECHNOLOGY CENTER 2100

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

Richard E Gamache
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston MA 02109

In re Application of	:	
DYKE, John Jeffrey Van et al.	:	
Appl. No.: 10/191,788	:	DECISION ON PETITION
Filed: September 9, 2002	:	UNDER 37 CFR § 1.59
For: CONFERENCING ARCHITECTURE EMPLOYING	:	
MEDIA SERVERS AND ENCHANCED SESSION	:	
INITIATION PROTOCOL		

This is a decision on the renewed petition under 37 CFR § 1.59(b), filed February 19, 2009 to expunge the affidavits of John Jeffrey van Dyke and Andy Spitzer under 37 C.F.R. 1.131 dated December 19, 2005 and June 22, 2006 and exhibits A-M.

The petition is **DENIED**.

MPEP § 724.05 states

> A petition under 37 CFR 1.59(b) to expunge information submitted under MPEP § 724.02, or that should have been submitted under MPEP § 724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP § 724.02) will be entertained only if the petition fee (37 CFR 1.17(g)) is filed and the information has been found not to be **>material to< patentability. If the information is found to be >**material to<** **patentability,** any petition to expunge the information will be denied. "

Because the affidavits above are considered and commented on by examiner in the final actions dated 3/28/06 and 12/14/06, the affidavits are determined to be material to prosecution and thus not eligible for expungement.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147. If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.

/brb/

/Kim Huynh/

Kim Huynh,
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APR 28 2009

TECHNOLOGY

Richard E Gamache
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston MA 02109

In re Application of DYKE, John Jeffrey Van et al. Appl. No.: **10/191,788** Filed: September 9, 2002 For: CONFERENCING ARCHITECTURE EMPLOYING MEDIA SERVERS AND ENCHANCED SESSION INITIATION PROTOCOL	DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the renewed petition under 37 CFR § 1.59(b), filed April 17, 2009 to expunge the affidavits of John Jeffrey van Dyke and Andy Spitzer under 37 C.F.R. 1.131 dated December 19, 2005 (Affidavit A) and June 22, 2006 (Affidavit B).

Petitioner states that the supporting information contains proprietary material and/or material that is subjected to a protective order which has not been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

During a telephone interview with attorney dated April 21, 2009; the issue of the affidavits materially linked to the case was discussed. Affidavits A and B include 1) sworn statements made by inventors John Jeffrey van Dyke and Andy Spitzer and 2) supporting information labeled as exhibits A-M.

The sworn statements themselves are not able to be expunged as they are materially linked through prosecution. However, the supporting information labeled as exhibits A-M has been determined by the undersigned to not be material to the examination of the instant application and can be expunged and blocked from public access.

For reasons stated above, the petition is **GRANTED in part.**

The support documents contained in exhibits A-M will be expunged from the record. The expunge material has been destroyed; the artifact folder is closed and therefore the material will not be returned.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

/brb/

/Kim Huynh/

Kim Huynh, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/191,788	07/09/2002	John Jeffrey Van Dyke	SNSH-006XX	6677

207 7590 04/28/2009
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

EXAMINER
WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
04/28/2009	PAPER

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

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

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/26/2010

Applicant	: John Jeffrey Van Dyke	: DECISION ON REQUEST FOR
Patent Number	: 7590692	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/191,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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300 S WACKER DRIVE, 25TH FLOOR
CHICAGO, IL 60606

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JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Milton Feng et al	:	
Application No. 10/191,812	:	DECISION GRANTING PETITION
Filed: July 8, 2002	:	UNDER 37 CFR 313(c)(2)
Attorney Docket No. 1201.66281	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 (703) 305-8680.

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

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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

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BIRDWELL & JANKE
1100 SW SIXTH AVENUE
SUITE 1400
PORTLAND, OR 97204

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MAR 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Chen Liang	:	
Application No. 10/191,874	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. P6121.62008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 18, 2005, 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 amendment submitted on September 21, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 29, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 18, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 2878.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

JAN 12 2004 PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/191,907
Filing Date	July 9, 2002
First Named Inventor	Young Sik Nam et al.
Art Unit	UNASSIGNED
Examiner Name	UNASSIGNED
Attorney Docket Number	5008-1-005

RECEIVED JAN 16 2004 TC 1700

To: **Commissioner for Patents**
P.O. Box 1450
Alexandria, VA 22313-1450

Approved AUG 30 2004
Jacqueline M. [illegible] Director
Technology Center

Please withdraw me as attorney or agent for the above identified patent application, 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 33942

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The foreign law firm from which this case was originated has been non-responsive in both to our instruction and payments for the last two years.

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					
Address					
Address					
City		State		Zip	
Country					
Telephone				Fax	

Name	Steve Cha		
Signature		Registration No.	44,069
Date	1/8/04	Telephone No.	201-226-9245

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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

KEVIN J. ZILKA
SILICON VALLEY IP GROUP, LLC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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JAN 0 6 2003

OFFICE OF PETITIONS

NOTICE

In re Application of :
Bevan S. Rowley et al :
Application No. 10/191,908 :
Filed: July 9, 2002 :
Attorney Docket No. NAI1P232/02.187.01 :

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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

KATTEN MUCHIN ROSENMAN LLP (MARVELL)
IP DOCKET
1025 THOMAS JEFFERSON STREET, N.W.
SUITE 700, EAST LOBBY
WASHINGTON, DC 20007-5201

COPY MAILED
SEP 16 2005
OFFICE OF PETITIONS

In re Patent No. 6,844,837	:	DECISION GRANTING PETITION
Issue Date: January 18, 2005	:	UNDER 37 CFR 1.78(a)(3) & 1.78 (a)(6)
Application No. 10/191,924	:	AND REQUEST FOR CERTIFICATE
Filed: July 8, 2002	:	OF CORRECTION
Attorney Docket No. MP0088. I	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed February 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS) and to add the claim for priority on the front page of the Letter Patents by way of a Certificate of Correction.

The petition is **GRANTED**.

A review of the record fails to disclose that a claim for the benefit of priority to the prior-filed applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and further failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78a(2)(i) and 1.78(a)(5)(i).

Since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), along with the submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to the prior-filed applications after issuance of the application into a patent. *See* MPEP 1481, Rev. 2, May 2004, page 1400-85, second column.

The petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.178(a)(6). Accordingly, the petition is granted.

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

Any inquiries concerning this decision may be directed to Sherry Brinkley at (571) 272-3204.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Bevan S. Rowley et al	:	
Application No. 10/191,933	:	NOTICE
Filed: July 9, 2002	:	
Attorney Docket No. NAI1P231/02.186 .01	:	

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 2153.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 1-23-06

In re application of	:	
Ilkka Rata et al.	:	DECISION ON
Serial No. 10/191,944	:	PETITION
Filed: July 9, 2002	:	
For: CARING DOCTOR BLADE AND METHOD FOR	:	
MANUFACTURE OF SAME	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181(a) filed July 25, 2005. The petitioner requests that the abandonment, as set forth in the Notice of Abandonment of July 1, 2005, for failure to timely file a proper reply to the Office letter mailed December 16, 2004, be withdrawn since the applicants did timely file a reply on March 9, 2005.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. The evidence submitted by petitioner includes a Certificate of Mailing certifying that applicant's response was being deposited with the U.S. Postal Service on March 9, 2005, and subsequently stamped by the Office of Initial Patent Examination on March 11, 2005, which was timely. A review of the evidence presented reveals that the Notice of Abandonment of July 1, 2005 was previously withdrawn and the application subsequently acted on by the Examiner. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed December 16, 2004 is hereby vacated.

In view of that fact that the abandonment was previously withdrawn and the application is now allowed, the Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

STEINBERG & RASKIN, P.C.
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Bradley M. Knepper
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver, CO 80202-5141

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MAY 0 1 2006
OFFICE OF PETITIONS

In re Application of

Bahareh Ghaffari

Application No. 10/191,958

Filed: July 8, 2002

Attorney Docket No. **4121-6**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 14, 2006. The petition will also be construed as a petition under 37 CFR 1.10(c).

The petition under 37 CFR 1.10(c) is **GRANTED.**

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **GRANTED**.

The above-cited application was filed on July 8, 2002. On March 22, 2005, a non-final Office action in the form of an election/restriction was mailed, allowing a shortened period for reply of one-month from its mailing date. A review of the application file did not reveal that a timely response to the election restriction requirement was filed. The application was held abandoned on April 23, 2005, and a Notice of Abandonment was mailed on March 21, 2006. The instant petition was filed on April 14, 2006. Petitioner maintains that a proper and timely response was deposited with the United States Postal Service, Express Mail Service on April 5, 2005, and the holding of abandonment is improper.

It is noted that Section 711.03(c) of the *Manual of Patent Examining Procedure* provides, in pertinent, part that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513).

Accordingly, the petition to withdraw the holding of abandonment will also be treated as a petition under 37 CFR 1.10(c).

TREATMENT UNDER 37 CFR 1.10

Petitioner alleges that a response to the election/restriction requirement was deposited with the Express Mail Service on April 5, 2005. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EV55678863US showing a "date-in" of August 5, 2005. The tracking number cited is the same number found on the copy of the election/restriction requirement that accompanied the instant petition. The evidence is convincing that the response to the election/restriction requirement was deposited on April 5, 2005.

In view of the above, the petition is granted. The filing date for the response to the election/restriction requirement is April 5, 2005.

TREATMENT UNDER 37 CFR 1.181

A review of the petition and exhibits has demonstrated that a response to the election/restriction requirement in the form of an election was deposited with the USPS, Express Mail Service on April 5, 2005. In filing the response, petitioner complied with 37 CFR 1.10(c). Accordingly, the response to the election/restriction requirement is deemed to have been received on April 5, 2005, notwithstanding the Office's failure to record the same. The petition to withdraw the holding of abandonment is granted, accordingly.

The application file is being directed to Technology Center 2100, GAU 2182 for further processing.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Samuli Stromberg et al :
Application No. 10/191,968 : ON PETITION
Filed: July 9, 2002 :
Attorney Docket No. 74242 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 11, 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 June 12, 2004.

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

A cursory review of the present petition has petitioner alleging that a complete reply was timely faxed to the USPTO on July 12, 2004 at (703) 872-9806. The Office has not record of the reply having been filed on or about that date. Effective December 1, 2003, all patent application related

correspondence transmitted by facsimile must be directed to the central facsimile number at (703) 872-9306.[1]

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

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

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

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

After this decision is mailed, deposit account No. 06-1135 will be charged $1,370.00 for the petition fee.

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

Wan Laymon

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

[1] *See* Official Gazette of May 27, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1600
CHICAGO, IL 60603-3406

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Samuli Stromberg	:	
Application No. 10/191,968	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. 74242	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2636.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

THOMAS E. MALYSZKO
SUITE 1500
250 - 6 AVENUE, SW
CALGARY T2P 3H7 CA
CANADA

COPY MAILED

JAN 28 2003

OFFICE OF PETITIONS

In re Application of Kittlitz, et al. Application No. 10/191,972 Filed: July 10, 2002 Atty. Dkt. No.: 508.1 Title: TRANSACTION PROCESSING SYSTEM IN A DISTRIBUTED NETWORK	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed via facsimile December 9, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed July 10, 2002 without an executed oath or declaration and naming Kenneth Kittlitz, David McFadzean, and Justin LaFrance as joint inventors.

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

The instant petition lacks items (1) and (2) set forth above.

As to item (1), petitioner has failed to establish that the inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Petitioner indicates the non-signing inventor has been uncooperative and has refused to execute the declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the

application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the citizenship of the non-signing inventor in accordance with 37 CFR 1.63(a)(3). Petitioner is advised that any renewed petition should include an executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

THOMAS E. MALYSZKO
SUITE 1500
250 - 6 AVENUE, SW
CALGARY T2P 3H7 CA
CANADA

COPY MAILED

APR 01 2003

OFFICE OF PETITIONS

In re Application of Kittlitz, et al. Application No. 10/191,972 Filed: July 10, 2002 Atty. Dkt. No.: 508.1 Title: TRANSACTION PROCESSING SYSTEM IN A DISTRIBUTED NETWORK	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed March 28, 2003.

The petition is **GRANTED**.

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

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

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

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

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

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

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/2/08

TO SPE OF : ART UNIT 2837 (Spe) Donovan Lincoln

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/191975 Patent No.: 6864659

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: _____

Walter Benson — SPE

2837 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/21/07

Paper No.: _____

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192049 Patent No.: 7139259 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**.

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: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2616
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/21/07 Paper No.: ____

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192049 Patent No.: 7139259 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**.

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: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2616
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.
10/192,050	07/10/2002	Curt Binner	PPC-0844	8437

27777 7590 03/15/2005

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

EXAMINER
POE, MICHAEL I

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 03/15/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 1 5 2005

In re Application of	:	
Curt Binner	:	
Serial Number : 10/192,050	:	WITHDRAWAL
Filed : July 10, 2002	:	FROM
For : TAMPON APPLICATOR HAVING	:	ISSUE
OUTWARDLY FLARED RIM	:	

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action. Telephone inquires may be directed to Michael Colaianni at 571-272-1196.

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

Philip S. Johnson
JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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STANDARDS
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PLANO, TX 75075

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of

Babu V. Mani

Application No. 10/192,068

Filed: July 10, 2002

Attorney Docket No. 135962

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on September 24, 2007.

The petition is **granted**.

This application was held abandoned on February 28, 2007, after no reply was received to the final Office action mailed November 27, 2006. The notice set forth a shortened period for reply of three-months from its mailing date. A Notice of Abandonment was mailed on August 7, 2007. The instant petition was filed on September 24, 2007. Petitioner maintains that the final Office action was never received. Petitioner states that a request to change the correspondence address associated with the application was filed in February 2004, but the request was not entered. Petitioner provides a copy of the Auto-Reply Facsimile Transmission sheet acknowledging receipt of the request to change the correspondence address on February 22, 2004.

A review of the application file reveals that both the final Office action and Notice of Abandonment were returned to the USPTO as undeliverable. It is further noted that the request to change the correspondence address was not entered until September 2007, notwithstanding the request having been previously filed in February 2004. Petitioner has not established that the final Office action was not received. The petition is granted, accordingly.

The application file will be directed to Technology Center 2600, GAU 2626 for further processing, including remailing of the final Office action and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Yen Choo	: DECISION ON REQUEST FOR
Patent Number	: 7285416	: RECALCULATION of PATENT
Issue Date	: 10/23/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/192,078	: OF WYETH
Filed	: 07/10/2002	:
		:

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

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

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

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

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KAREN S. CANADY
CANADY & LORTZ, LLP
COMMERCE PLAZA
11340 WEST OLYMPIC BLVD., SUITE 275
LOS ANGELES, CA 90064

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DEC 28 2007
OFFICE OF PETITIONS

In re Patent No. 6,924,144 :
Issue Date: August 2, 2005 :
Application No. 10/192,085 : NOTICE
Filed: July 10, 2002 :
Patentee(s): Luigi Naldini, et. al. :

This is a notice regarding a communication for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on May 16, 2007. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

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

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR NY 10510

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:
Giannopoulos et al.	:
Application No. 10/192,095	: DECISION ON PETITION
Filed: 10 July, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. US020266	:

This is a decision on the petition filed on 14 November, 2005, which is treated as a petition under 37 CFR 1.78(a)(3) 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2176 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Masaharu Sakai et al :
Application No. 10/192,131 :
Filed: July 10, 2002 :
Attorney Docket No. 4041J-000544

ON PETITION

This is a decision on the petition, filed October 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 July 30, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
Masaharu Sakai et al :
Application No. 10/192,131 : ON PETITION
Filed: July 10, 2002 :
Attorney Docket No: 4041J-000544

This matter is before the Office of Petitions for consideration of a petition under 37 CFR 1.313(a), filed October 23, 2007, to withdraw this application from issue. However, in view of the circumstances of this case, this matter is more appropriately under 37 CFR 1.313(b)(1) for action by the Office to *sua sponte* withdraw this application from issue for the reasons stated below. In view of the withdrawal of this application from issue by the Office under the provisions of 37 CFR 1.313(b)(1), the decision mailed October 31, 2007 is vacated.

The petition under 37 CFR 1.313(b)(1) is **GRANTED**.

A review of the file record discloses that, on July 30, 2007, an amendment and a Request for Continued Examination under 37 CFR 1.114, which contained a request for suspension of action under 37 CFR 1.103(c) for three months, were received. However, despite this request to suspend, the Office mailed a Notice of Allowability and a Notice of Allowance and Fee(s) Due on August 20, 2007, which is less than one month from the date of filing of the request to suspend.

In view of the request to suspend, it would be appropriate here for the Office to withdraw this application from issue pursuant to the provisions of 37 CFR 1.313(b)(1) to allow the Office to consider the Information Disclosure Statement filed on October 23, 2007. Accordingly, this application is withdrawn from issue.

Inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

This matter is being referred to the Examiner of Technology Center AU 3745 for consideration of the Information Disclosure Statement filed on October 23, 2007.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Sinnarajah et al.	:	
Application No. 10/192,132	:	DECISION ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. 020574	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 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 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 $1050.00 extension of time fee submitted with the petition on March 17, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2616 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1

DATE : October 13, 2007

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction on Patent No.: 7197486

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:

DAVID VINCENT
SUPERVISORY PATENT EXAMINER

2129

SPE: Art Unit

Fernandez Rivas, Omar

From: Green, Angela
Sent: Saturday, October 06, 2007 5:07 PM
To: Vincent, David; Fernandez Rivas, Omar
Subject: IFW 10/192158 7197486

Please respond to Req. for correction ASAP. The Application file has been sent to SPE's/Examiner's Mailbox today. The PTOL-306 has been forwarded for scanning today.

Once decision has been made on PTOL-306 and forwarded to scanning, a return message in Edan/Madras with comment stating "Response has been forwarded for scanning" is very much welcomed and appreciated.

PUBS CofC
Angela Green
ST9A22 Loca 7580
703.308.9380 ext. 123

FWF - Forms

SPE Response

Thank you for your attention to this matter.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Paper No. 7

Finnegan Henderson Farabow Garrett & Dunner
1300 I Street, NW
Washington, DC 20005

MAILED

MAR 3 1 2004

Technology Center 2100

In re Application of:
William Tracy FULLER, et al.
Application No. 10/192,182
Filed: July 9, 2002
For: METHODS AND SYSTEMS FOR SHARED STORAGE VIRTUALIZATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 22, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Brian Siritzky, Esq.
Heller Ehrman
1666 K Street, NW Suite 300
Washington, DC 20006

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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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MAY 03 2007

OFFICE OF PETITIONS

DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
FULLER, William Tracy et al.	:	
Application No. 10/192,182	:	DECISION ON PETITION
Filed: July 09, 2002	:	TO WITHDRAW
Attorney Docket No. **2615-0039**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to DAVIDSON BERQUIST JACKSON & GOWDEY LLP has been revoked by the assignee of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHARLES A. WEISS, ESQ.**
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

COPY MAILED

APR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Wasik et al.	:	
Application No. 10/192, 193	:	DECISION ON PETITIONS
Filed: July 9, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 46483-5033-00-US	:	AND 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed November 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/US01/01537 filed January 14, 2001, and under 35 U.S.C. §119(e) for the benefit of priority to a prior-filed provisional application, as set forth in the amendment filed on July 15, 2003.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. §§ 119(e), 120, and 365(c) is **GRANTED.**

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional and PCT application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1617 for consideration by the examiner of the claim under 35 U.S.C. § §119(e), 120 and 365(c) of the prior-filed international application and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/192,193	07/09/2002	1617	600	46483-5033-00-US	29	5

CONFIRMATION NO. 6313

CORRECTED FILING RECEIPT

23973
DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

OC000000029564241

Date Mailed: 04/24/2008

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)

Mariusz A. Wasik, Ardmore, PA;
Leslie M. Shaw, Audubon, PA;

Assignment For Published Patent Application

The Trustees Of The University Of Pennsylvania

Power of Attorney: The patent practitioners associated with Customer Number 23973

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US01/01537 01/12/2001
which claims benefit of 60/176,086 01/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/192,193**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

O-methylated rapamycin derivatives for alleviation and inhibition of lymphoproliferative disorders

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 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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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of

Saharan, et al. :

Application No. 10/192,209

: DECISION ON PETITION

Filed: July 10, 2002

:

Attorney Docket No. DP-306403

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 28, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 29, 2005. A Notice of Abandonment was mailed January 11, 2006.

The Request for Continued Examination filed June 23, 2006, is noted and made of record.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, filed June 23, 2006, is noted but will not be entered because there is no stated relationship between Ulrik Grape—who signed the power of attorney—and the assignee, Enerdel, Inc. The certificate under 37 CFR 3.73(b) filed June 29, 2006, is also noted, but is not signed by Ulrik Grape and the position of Ulrik Grape relative to the assignee is not stated. Petitioner should file another Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address that emphatically states the position of Ulrik Grape relative to the assignee. A courtesy copy of this decision is being mailed to the address cited on the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Technology Center 1700, GAU 1745 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Preston H. Smiman
Howard and Howard Attorneys P.C., Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

MYERS BIGEL SIBLEY & SAJOVEC
P O BOX 37428
RALEIGH, NC 27627

COPY MAILED

OCT 17 2002

OFFICE OF PETITIONS

In re Application of	:	
Frank Burkhead Wyatt II et al	:	
Application No. 10/192,215	:	NOTICE
Filed: July 10, 2002	:	
Attorney Docket No. 9040-20	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

In re Application of
QU, HAI, et al.
Application No. 10/192,218
Filed: July 9, 2002

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

For: **MANAGEMENT OF SMS MEMORY FULL CONDITION IN CDMA SYSTEMS**

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181(a) filed July 25, 2005. No fee is required.

The application is in an abandoned status for failure to respond to the final Office action mailed August 23, 2004. A Notice of Abandonment was mailed March 21, 2005.

Petitioner alleges non-receipt of the final Office action mailed August 23, 2004. In support of the petition, petitioner has provided a statement that the office communicated was not received by the petitioner. In addition, attached to and reference in the petition is a copy of the docket record where the non-received office communication would have been entered had it been received and docketed.

A review of the file finds that the U.S. Postal Service returned the original final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action originally mailed on August 23, 2004. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD F. JAWORSKI
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Patent No. 7,042,830	:	
Issue Date: May 9, 2006	:	
Application No. 10/192,246	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. 2271/67684	:	

This is a decision on the petition filed June 15, 2006, which is being treated 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 inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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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020305

Tanveer UL Haq
16230 Brookford Dr.
Houston TX 77059

FEB 18 2005

In re Application of:
Tanveer UL Haq
Serial No.: 10/192,269
Filed: July 10, 2002

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed July 22, 2004. The petition has been treated as a petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above identified application.

The petition to withdraw the holding of abandonment is **DENIED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on April 4, 2003. A Notice of Abandonment was mailed on February 20, 2004.

Petitioner asserts that the Office action mailed April 4, 2003 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 practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The general allegation that the Office action was not received is not sufficient. While petitioner may not keep a record showing receipt of all incoming mail, petitioner must attest that upon receipt of the Office action that it would have been placed in a file or specific location and that a search of that file and/or location indicates that the Office action was not received. Petitioner should be specific about the affirmative steps taken regarding the receipt of mail and safekeeping of correspondence from the Office.

For the above-stated reasons, the petition to withdraw the holding of abandonment is denied.

However, petitioner may file a request for reconsideration of this decision. Such request must state how the mail from the Patent and Trademark Office is received and filed by petitioner, and, if the mail was put in a file and/or specific location, that a search of such file and/or specific location indicates that the Office action of April 4, 2003 was not received.

Petitioner has filed the instant petition for two separate applications. Since each application file must be complete by itself, the rule (37 Code of Federal Regulations § 1.4) requires that a separate copy paper to be filed in each application must be furnished for each file to which the paper pertains, even though the contents of the paper filed in the two applications may be identical. Future correspondence regarding this application must be submitted using its application serial number separately from the correspondence for other applications.

Any request for reconsideration of this decision must be submitted within two months of the mail date of this decision in order to be considered timely.

The booklet "General Information Concerning Patents" for use by applicants contemplating the filing or prosecution of their own applications, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The booklet is also available from the USPTO Web page at: http://www.uspto.gov.

Any inquiry concerning this petition should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Please type a plus sign (+) inside this box → [+]

10-10-02

PTO/SB/21 (08-00)
Approved for use through 10/31/02. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE
OCT 0 8 2002
PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission	53

Application Number	10/192,280
Filing Date	09 July 2002
First Named Inventor	Nanibhushan DATTAGUPTA
Group Art Unit	1645
Examiner Name	To be assigned
Attorney Docket No.	475412001300

ENCLOSURES (check all that apply)

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declarations
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement, PTO Form 1449, References
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 C.F.R. 1.52 or 1.53, including Declaration for Utility Patent Application
- [ ] Assignment Papers
- [x] Request for Correction of Drawings and Drawings (Figures 1 and 2 consisting of 10 sheets, plus a copy with the proposed changes in red)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [x] CD, Number of CD(s) 1
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):
  - [x] Return Postcard
  - [x] Sequence Listing (14 pages)
  - [x] Copy of Notice to File Missing Parts
  - [x] Prosecution by Assignee and Power of Attorney Under 37 C.F.R. §3.71

Remarks

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Kate H. Murashige, Reg. No. 29,959 Morrison & Foerster LLP 3811 Valley Centre Drive, Suite 500, San Diego, California 92130
Signature	Kate H. Murashige
Date	October 8, 2002

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EV 143875741 US Date of Deposit: October 8, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, Box Missing Parts.

Diane Blevins

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Issue Fee, Washington, DC 20231.

sd-111787

PTO/SB/17 (09-00)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL FOR FY 2002

OIPE JC102
OCT 0 8 2002
PATENT & TRADEMARK OFFICE

Patent fees are subject to annual revision.

Complete if Known	
Application Number	10/192,280
Filing Date	09 July 2002
First Named Inventor	Nanibhushan DATTAGUPTA
Examiner Name	To be assigned
Group Art Unit	1645
Attorney Docket No.	475412001300

TOTAL AMOUNT OF PAYMENT ($) 65.00

METHOD OF PAYMENT

1. [X] The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 03-1952

Deposit Account Name: Morrison & Foerster LLP

[X] Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

[X] Applicant claims small entity status. See 37 CFR 1.27

2. [ ] **Payment Enclosed:**

☐ Check ☐ Credit Card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($) 00

2. EXTRA CLAIM FEES

		Extra Claims		Fee from below		Fee Paid
Total Claims	- 30** =	1	x		=	$
Independent Claims	- 3** =	0	x		=	$
Multiple Dependent					=	$

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claims, if not paid
109	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 00

** or number previously paid, if greater; For reissues, see above.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity Fee ($)	Small Fee Code	Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 65.00

SUBMITTED BY

Name (Print/Type)	Kate H. Murashige	Registration No. (Attorney/Agent)	29,959	Telephone	(858) 720-5112
Signature	Kate H. Murashige			Date	October 8, 2002

Complete (if applicable)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

sd-111784

OIPE JC102
OCT 0 8 2002
PATENT & TRADEMARK OFFICE

#7

PATENT
Docket No. 475412001300

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EV 143875741 US Date of Deposit: October 8, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231.

Diane Blevins

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Nanibhushan DATTAGUPTA et al.

Serial No.: 10/192,280

Filing Date: 09 July 2002

For: COMPOSITIONS AND METHODS FOR DETECTING STREPTOCOCCUS AGALACTIAE CAPSULAR POLYSACCHARIDE SYNTHESIS GENES

Examiner: To be assigned

Group Art Unit: 1645

REQUEST FOR CORRECTION OF DRAWINGS

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Enclosed are two (2) substitute sheets of drawings for Figures 1 and 2 in connection with the above-identified application. In addition, please find enclosed drawings showing the proposed changes in red.

The Figures are amended to include sequence identification numbers which were inadvertently omitted at the time of filing. Applicants respectfully request the entry of these amendments.

sd-112949

In the unlikely event that the transmittal letter is separated from this request and the U.S. Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing to our **Deposit Account No. 03-1952**. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: October 3, 2002

By: Kate H. Murashige

Kate H. Murashige
Registration No. (29,959)

Morrison & Foerster LLP
3811 Valley Centre Drive
Suite 500
San Diego, California 92130-2332
Telephone: (858) 720-5133
Facsimile: (858) 720-5125

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
10/192,280	07/09/2002	Nanibhushan Dattagupta	475412001300

CONFIRMATION NO. 8664

FORMALITIES LETTER

OC000000008587815

Laurie A. Axford
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130-2332

OIPE JC102 OCT 0 8 2002 PATENT & TRADEMARK OFFICE

Date Mailed: 08/08/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/11/2002 SZEWDIE1 00000040 031952 10192280
01 FC:205 65.00 CH

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

PATENT
Docket No. 475412001300

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EV 143875741 US Date of Deposit: October 8, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to : Assistant Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231.

Diane Blevins

OIPE
OCT 0 8 2002
JC102
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Nanibhushan DATTAGUPTA et al.

Serial No.: 10/192,280

Filing Date: 09 July 2002

For: COMPOSITIONS AND METHODS FOR DETECTING STREPTOCOCCUS AGALACTIAE CAPSULAR POLYSACCHARIDE SYNTHESIS GENES

Examiner: To be assigned

Group Art Unit: 1645

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53 (b)

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Notice to file Missing Parts of Nonprovisional Application 10/192,280 mailed August 8, 2002, for which a response is due on October 8, 2002. Accordingly, this response is timely filed.

Please enter the following Sequence Listing, amendments and remarks.

In the Sequence Listing:

Please insert the attached paper copy of the Sequence Listing as new pages 1-14 in the above-captioned application. A computer-readable form copy (CRF copy) of the Sequence Listing accompanies this response.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:08272005

DATE : August 27, 2005

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 6787553

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:

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Christopher Low **Art Unit** 1614

1614

IFW

OIPE IAP28 NOV 1 8 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Michael Tortorella, et al.	Group Art Unit:	1614
Serial No.:	10/192,283		
Filed:	07/09/2002	Examiner:	Kumar, Shailendra
Title:	Hydroxamic Acid Thrombospondin Peptide Analog That Inhibits Aggrecanase Activity		

Attention: Withdrawal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Box 1450 Alexandria VA 22313-1450 on November 15, 2005.

Howard M. Peters

Howard M. Peters (Reg. No. 29,202)

REQUEST FOR PERMISSION TO WITHDRAW

Sir:

1. I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this patent in accordance with 37 C.F.R. § 1.36.

LAST KNOWN ADDRESS OF CLIENT

2. The last known mailing address of the:

[ ] inventor

[X] prior assignee of the entire interest is

MP Biomedicals, L.LC.
15 Morgan
Irvine, CA 92618-2005
Telephone 1-(949) 833-2500
Telefax 1-(949) 859-5010

APPROVED

1/20/06

WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Ernesto S. dela Cruz	:	
Application No. 10/192,293	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. 42P13550	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed March 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 1700, Art Unit 1734 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

JJGJr: 03-05

Paper No: __

BAKER & DANIELS
111 E. WAYNE STREET
SUITE 800
FORT WAYNE IN 46802

COPY MAILED
MAR 0 8 2005
OFFICE OF PETITIONS

In re Application of
Pursley :
Application No. 10/192,306 : ON PETITION
Filed: 10 July, 2002 :
Attorney Docket No.: PRD0001 :

This is a decision on the petition filed (with fee) via FAX on 7 January, 2005, under 37 C.F.R. §1.182.

The petition is **GRANTED**, a corrected filing receipt is enclosed, and, as authorized, the petition fee is charged to Deposit Account 5012-2136.

NOTE: The address on the petition is other than that of record. There is no indication that Petitioner herein Noticed the Office pursuant to 37 C.F.R. §1.2, §1.4 and §1.33 as to a change of address. If Petitioner desires to receive future correspondence regarding this application an address other than that of record, the appropriate Notice must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The petition alleges that, at the signing of the oath/declaration, Petitioner erroneously set forth the name of the sole as "Denton C. Pursely," rather than "Denton C. Pursley."

The file is being released to Publications Branch in order that the instant application may be processed into a patent in the name of the sole inventor Denton C. Pursley in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: Corrected Filing Receipt

cc:
MICHAEL S. GZYBOWSKI
BUTZEL LONG
350 SOUTH MAIN ST. STE. 300
ANN ARBOR, MI 48104

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr: 02-06

Paper No: __

MICHAEL S. GZYBOWSKI
BUTZEL LONG
350 SOUTH MAIN ST. STE. 300
ANN ARBOR, MI 48104

COPY MAILED
FEB 16 2006
OFFICE OF PETITIONS

In re Application of
Pursley :
Application No. 10/192,306 : ON PETITION
Filed: 10 July, 2002 :
Attorney Docket No.: 121054.001/PRD0001 :

This is a decision on the petition filed (with fee) via FAX on 16 June, 2005, under 37 C.F.R. §1.182.

The petition is **GRANTED**,

The statement of the co-inventor's name (formerly set forth in a nickname as Suresh Reddy) will be corrected to MITTA SURESH.

Petitioner is reminded to submit to the Assignment Division a corrected assignment document and cover sheet--as well as the appropriate fee--as set forth in 37 C.F.R. §1.21(h) for change of the assignment record.

This application is released to the Office of Patent Publication with instructions to reflect the correct statement of the inventor's name as DENTON C. PURSLEY before issuing a corrected letters patent in due course.

BACKGROUND

The petition alleges that, following the signing of the oath/declaration in which Petitioner erroneously set forth the name of the sole as "Denton C. Pursely," rather than "Denton C. Pursley," the Office was petitioned to correct the error and said petition was granted on 8 March, 2005, however, the patent issued with the incorrect spelling of the inventor's name

The file is being released to Publications Branch in order that duplicate and corrected letters patent issue in the name of the sole inventor Denton C. Pursley in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
Contact: Krystal Paige
Management & Program Analyst
OPPD/ST 8C32
Office: 703-308-9250 ext 139
Fax: 571-273-9756

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJr: 02-06

Paper No: __

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ANN ARBOR, MI 48104

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of
Pursley :
Application No. 10/192,306 : ON PETITION
Filed: 10 July, 2002 :
Attorney Docket No.: 121054.001/PRD0001 :

This is a decision on the petition filed (with fee) via FAX on 16 June, 2005, under 37 C.F.R. §1.182.

The the decision of 16 February is **vacated**; this corrected decision substituted therefore; and the petition is **GRANTED**.

The statement of the co-inventor's name (formerly erroneously set forth "Denton C. Pursely," rather than as "DENTON C. PURSLEY."

Petitioner is reminded to submit to the Assignment Division a corrected assignment document and cover sheet--as well as the appropriate fee--as set forth in 37 C.F.R. §1.21(h) for change of the assignment record.

This application is released to the Office of Patent Publication with instructions to reflect the correct statement of the inventor's name as DENTON C. PURSLEY before issuing a corrected letters patent in due course.

BACKGROUND

The petition alleges that, following the signing of the oath/declaration in which Petitioner erroneously set forth the name of the sole as "Denton C. Pursely," rather than "Denton C. Pursley," the Office was petitioned to correct the error and said petition was granted on 8 March,

2005, however, the patent issued with the incorrect spelling of the inventor's name

The file is being released to Publications Branch in order that duplicate and corrected letters patent issue in the name of the sole inventor Denton C. Pursley in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
Contact: Krystal Paige
Management & Program Analyst
OPPD/ST 8C32
Office: 703-308-9250 ext 139
Fax: 571-273-9756

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

Levin Intellectual Property Group
384 Forest Avenue, Suite 13
Laguna Beach, CA 92651

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of	:	
George Wade	:	
Application No. 10/192,325	:	ON PETITION
Filed: July 8, 2002	:	
Attorney Docket No. 2016.301	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 30, 2003.

The application file is being forwarded to Technology Center AU 1731.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

MYERS BIGEL SIBLEY & SAJOVEC
P O BOX 37428
RALEIGH, NC 27627

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of	:	
Gregory M. Webb et al	:	
Application No. 10/192,330	:	NOTICE
Filed: July 10, 2002	:	
Attorney Docket No. 9289-9	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OCT 10 2003

#5

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK NY 10154-0053

In re Application of	:
Michael Seul et al	:
Serial No.: 10/192,352	: PETITION TO MAKE SPECIAL
Filed: July 9, 2002	:
Attorney Docket No.: 4363-4001	:

This is in response to applicants' petition filed June 2, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02. No specific reason for making the application special other than a desire to have the patent issued upon commercialization has been given. Such reason is insufficient to make the application special. Therefor the petition is **DISMISSED**.

Applicants may submit a renewed petition which meets the requirements of any section of M.P.E.P. 708.02.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-13-08 Paper No.: _____

TO SPE OF : ART UNIT 1639

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/622352 Patent No.: 7337753

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 they not be entitled?

Thank You For Your Assistance

Certificates of Correction Branch
703-308-9390 ext. _____

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

The CoC should be accepted; the error was on the part of the PTO.

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 20, 2006

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192385 Patent No.: 6,806,644

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: Above mentioned corrections are approved, since above paragraph was originally present in claim 5. So there is no question of new-matter.

K Guharay
6/1/06

SPE

2879
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Rohan Lenard et al	:	
Application No. 10/192,388	:	DECISION ON PETITION
Filed: July 10, 2002	:	TO WITHDRAW
Attorney Docket No. 013217.0187PTUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 16, 2009.

The request is **APPROVED**.

A review of the file record indicates that James M. Graziano: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, James M. Graziano has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James M. Graziano
Patton Boggs LLP
1801 California Street, Suite 4900
Denver, CO 80202-2613

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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JOSEPH A SAWYER JR
SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
David C. Wyland	:	
Application No. 10/192,391	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. QST-062/ 2437P	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed April 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 January 6, 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 April 7, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2193 for consideration of the Amendment filed April 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 28, 2006

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192437 Patent No.: 6,828,434

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

1637

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALLEN DYER DOPPELT MILBRATH & GILCHRIST PA
255 SOUTH ORANGE AVENUE, SUITE 1401
P O BOX 3791
ORLANDO, FL 32802-3791

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Urs Blattmann :
Application No. 10/192,443 : DECISION ON PETITION
Filed: July 10, 2002 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 26692_UT :

This is a decision on the petition to defer issuance of patent, filed April 20, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to include the assignee data on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that inclusion of the assignee information on the Issue Fee Transmittal Form PTOL-85(b) was unintentionally omitted. Accordingly, petitioner herein requests that the patent issue to **Townley Foundry & Machine Co., Inc., Candler, Florida**.

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.

---

[1] *See* Official Gazette of June 22, 2004

The instant request was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). Accordingly, the request cannot be granted.

A review of the assignment records reflects that an assignment to Townley Foundry & Machine Co., Inc., Candler, Florida, has been recorded (in provisional Application No. 60/304,295, from which the instant application claims priority) and that such assignment was recorded prior to issuance of this application into a patent. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Townley Foundry & Machine Co., Inc., Candler, Florida, was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Townley Foundry & Machine Co., Inc., Candler, Florida, as the assignee</u>**. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 6,921,242
Inventor(s) : Urs Blattmann
Issued : July 26,2005
Title : CENTRIFUGAL SLURRY PUMP
Docket No. : 26692-UT

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a petition, under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A petition to correct the Assignee under 37 CFR 1.183 should include:

A. the petition fee set forth in 37 CFR 1.117(h) (currently $130);
B. a request that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided;
C. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
D. 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 Petition, Applicant(s) may request that the file is forwarded to Certificates of Correction Branch, for issuance of a Certificates of Correction, if the Petition is granted.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail:	Commissioner of Patents and Trademarks Mail Stop: Petitions Alexandria, VA 22313
By Fax:	(703) 308-6916 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

Ennis Young
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 117** or (703) 305-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
SUITE 1220
10960 WILSHIRE BLVD.
LOS ANGELES, CA 90024

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of	:
Rainer Maurer, Uwe Gillman and	: LETTER NOTING JOINDER OF
Michael Stoffers	: INVENTOR
Application No. 10/192,460	:
Filed: July 9, 2002	:
Title: FOOT OR HAND OPERATED CONTROL	

This is in response to the papers filed March 29, 2005.

The above-identified application was filed on July 9, 2002 without a fully executed oath or declaration and naming Rainer Maurer, Uwe Gillman and Michael Stoffers as joint inventors. The signature of Uwe Gillman is missing on the Declaration submitted on July 9, 2002.

It is Office practice to have the Office of Initial Patent Examination (OIPE) mail a "Notice of Missing Parts in a Nonprovisional Application" (Notice) that states the declaration is unsigned and specifically that the signature of Uwe Gillman is missing.

This letter notes that applicant has now submitted a Declaration executed by the previously non-signing inventor Uwe Gillman in compliance with 37 CFR 1.63.

The $130.00 surcharge for the submission of a late oath or declaration will be charged to deposit account no 06-1985.

This file will be returned to Publications branch.

Telephone inquiries regarding this letter should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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Paper No. None

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of
Darryl Jessie et al.
Application No. 10/192,476
Filed: July 9, 2002
Attorney Docket No. 020416
Title: INTEGRATED CIRCUIT WITH LOW-LOSS PRIMARY CONDUCTOR STRAPPED BY LOSSY SECONDARY CONDUCTOR

DECISION ON PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition filed on October 27, 2006, pursuant to 37 C.F.R. §1.181(a) to withdraw the holding of abandonment.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 5, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[1]. Accordingly, the above-identified application became abandoned on March 6, 2006. On March 9, 2006, a supplemental notice of allowability was mailed. The issue and publication fees were received on April 18, 2006, and a Notice of Abandonment was mailed on July 10, 2006.

1 See MPEP §710.02(e).

RELEVANT PORTIONS OF THE C.F.R.

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, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

37 C.F.R. § 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

37 C.F.R. §1.181(f) indicates that any petition submitted under this portion of the C.F.R. that is not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The present petition was submitted over two months after the mailing of the notice of abandonment.

CONCLUSION

As such, the petition under 37 C.F.R. §1.181 is **DISMISSED** as untimely.

It is noted in passing that even if this petition were to be accepted as timely filed, it could not be granted, for Petitioner has failed to establish that the holding of abandonment should be withdrawn.

Petitioner has alleged that "Applicant successfully paid the issue fee in a timely manner,"[2] but such is not the case. As set forth above, the notice of allowance and issue fee due was mailed December 5, 2005, and set a non-extendable three-month period for response. As such, the issue and publication fees were due no later than March 5, 2006. When the required fees were not presented by this date, pursuant to Rule §1.135, the present application went abandoned by operation of law. Petitioner submitted these fees to the Office on April 18, 2006[3], and as such, they were not timely presented.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider seeking revival via the filing of a petition pursuant to 37 C.F.R. §§1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything

---

2 Petition, paragraph 2b.
3 Although it is not alleged in the petition, perhaps Petitioner was of the mistaken belief that the supplemental notice of allowability reset the period for response?
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. 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

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 30 2007

OFFICE OF PETITIONS

Paper No. None

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

In re Application of Darryl Jessie et al. Application No. 10/192,476 Filed: July 9, 2002 Attorney Docket No. 020416 Title: INTEGRATED CIRCUIT WITH LOW-LOSS PRIMARY CONDUCTOR STRAPPED BY LOSSY SECONDARY CONDUCTOR	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed February 16, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 5, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[2]. Accordingly, the

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
1. The reply required to the outstanding Office action or notice, unless previously filed;
2. The petition fee as set forth in § 1.17(m);
3. A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
4. Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

above-identified application became abandoned on March 6, 2006. On March 9, 2006, a supplemental notice of allowability was mailed. The issue and publication fees were received on April 18, 2006, and a Notice of Abandonment was mailed on July 10, 2006.

A petition pursuant to Rule §1.181(a) was filed on October 27, 2006, which was dismissed via the mailing of a decision on December 18, 2006.

With the present petition, Petitioner has included the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. It is noted that the issue and publication fees were submitted with the previous petition.

Consequently, The present petition under 37 C.F.R. §1.137(b) is **GRANTED.**

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) by Petitioner.

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Paper No. 4

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of BERARDI et al. Application No. 10/192,488 Filed: July 9, 2002 For: SYSTEM AND METHOD FOR PAYMENT USING RADIO FREQUENCY IDENTIFICATION IN CONTACT AND CONTACTLESS TRANSACTIONS	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 12, 2003.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," 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).

Applicants filed the above-identified application on July 9, 2002, without an executed oath or declaration. On August 7, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Application," requiring the executed oath or declaration and a surcharge for the late filing. In response, on February 12, 2002, applicants filed the present petition, a request for a four (4) month extension of time, a declaration signed by 10 of the 11 joint inventors, the requisite fees and a Declaration of Facts of Patrick L. Mixon.

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. Applicants lack items (1) and (2) as set forth above.

As to item (1), Mr. Mixon stated that Jeffrey Fehlhaber, Coby Royer, and Patrice Jacobson, employees of American Express, provided draft copies of the application to the nonsigning inventor, Alexandra Mayers. Applicants also stated that "American Express" forwarded the declaration and application to the inventors for their review and signatures. However, applicants did not provide a copy of an affidavit or declaration of facts signed by the person(s) who had firsthand knowledge of the event. Therefore, applicants failed to submit sufficient proof that the non-signing inventor was presented with a complete copy of the application papers for review. Unless Ms. Mayers was presented with a copy of the application papers (specification, claims and drawings), she could not attest that she has "reviewed and understands the application papers," and therefore, could not sign the declaration which she was given. Applicants should submit a signed affidavit or declaration of facts by the person(s) who presented the copy of the application papers to the nonsigning inventor. Statements based on hearsay will not normally be accepted. MPEP 409.03(d).

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the citizenship of Michal Bliman and Alexandra Mayers. Additionally, Susan Isenberg indicated her citizenship as "American." If Ms. Isenberg is a citizen of the United States, she must designate such in her declaration. The Office notes that the oath or declaration must identify the country of citizenship. 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants should submit a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing addresses, and citizenships, and executed by all of the signing inventors. See 37 CFR 1.67(a)(2); MPEP 409.03(a).

The Office notes that the declaration does not list the joint inventors by numerical order. Accordingly, the Office will issue the patent in the order in which the names appear in the original oath or declaration. If applicants wish to change the order of inventors, applicants must file a petition under 37 CFR 1.182 with a $130.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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NOV 13 2003

OFFICE OF PETITIONS

In re Application of Berardi et al. Application No. 10/192,488 Filed: July 9, 2002 Attorney Docket No. 40655-7000 For: SYSTEM AND METHOD FOR PAYMENT USING RADIO FREQUENCY IDENTIFICATION IN CONTACT AND CONTACTLESS TRANSACTIONS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 16, 2003.

The petition is granted.

Petitioner has shown that Alexandra Mayers, 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 Patrick L. Mixon establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Alexandra Mayers
49 Grove Street
Apartment #5A
New York, NY 10014

COPY MAILED
NOV 13 2003
OFFICE OF PETITIONS

In re Application of :
Berardi et al. :
Application No. 10/192,488 : LETTER
Filed: July 9, 2002 :
Attorney Docket No. 40655-7000 :
For: SYSTEM AND METHOD FOR PAYMENT :
USING RADIO FREQUENCY :
IDENTIFICATION IN CONTACT AND :
CONTACTLESS TRANSACTIONS :

Dear Ms. Mayers:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:
Kazuaki Hamada et al	:
Application No. 10/192,493	: DECISION GRANTING PETITION
Filed: July 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36856.730	:

This is a decision on the petition, filed March 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2643 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PABLO DARIO CAPPELLINI
42 Fields Park Rd., Newport
South Wales WLS NP20 -5BB
UNITED KINGDOM

In re Application of Cappellini Application No. 10/192,507 Filed: July 11, 2002 Title of Invention: Search and Retrieval System of Transportation-related Flexibly Defined Paths	:	ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 20, 2005. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held 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 January 14, 2005. 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). A corrected Notice of Allowance and supplemental Notice of Allowability were mailed on April 28, 2005.[1] The Notices mailed on April 28, 2005 maintained the period of reply as that provided in the January 14, 2005 Notices. Accordingly, this application was held abandoned on April 15, 2005. A Notice of Abandonment was mailed July 25, 2005.

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[1]Petitioner was under the belief that the corrected Notice of Allowance provided petitioner with three months from mailing on April 28, 2005. Such interpretation is incorrect. The corrected Notice of Allowance clearly informed petitioner that the January 14, 2005 Notice of Allowance reply date was controlling. If petitioner was unable to establish non-receipt of the January 14, 2005 Notice of Allowance, the application would have been properly held abandoned because the RCE submitted on July 26, 2005 was untimely.

Petitioner asserts that the Notice of Allowance and Fee(s) due and the Notice of Allowability mailed January 14, 2005 was never received. A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Notice of Allowability was not received and attesting to the fact a review of docket records indicates the Notice of Allowability was not received. In addition, petitioner has provided a copy of docket records for the dates in question. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the holding of abandonment.

It is noted that although the application was held abandoned, prosecution in this application continued. Duplicate fees for the RCE were charged to petitioner's credit card due to the duplicate submissions of the RCE. Accordingly, petitioner is entitled to a refund in the amount of $395.00. Further since the abandonment is being withdrawn and a Notice of Allowance has not been issued since the filing of the RCE, petitioner will be refunded the $700.00 issue fee and $300.00 publication fee. The $750.00 petition to revive fee will also be refunded.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PRO-TECHTOR INTERNATIONAL
20775 NORADA COURT
SARATOGA, CA 95070-3016

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JUL 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 10/192,517 : ON PETITION
Filed: July 9, 2002 :
Attorney Docket No. 1211035 :

This decision concerns the June 21, 2004 "Petition to Revive Application Abandoned Unintentionally" which is being properly treated as a petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on February 26, 2004 for failure to timely pay the issue fee and the publication fee.

The instant petition authorizes the USPTO to charge the $665 petition fee (small entity), the $665 issue fee (small entity) and the $300 publication fee to Deposit Account No. 16-2497. Also included in the petition is a statement that the entire delay in paying the issue fee and the publication fee from the due date until the filing of a grantable §1.137(b) petition was unintentional. The practitioner making this statement is not the attorney-of-record. However, the statement is presumed to have been made subsequent to a reasonable inquiry into the circumstances of the delay in question.

The petition is granted.

The application file is being returned to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 05

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

JUN - 5 2003

In re Application of:
BABICH, NIKOLAI
Application No. 10/192,523
Filed: July 11, 2002
For: Method of Controlling Magnetic Flux of Electromagnet, and Electromagnet Implementing the Same

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 16, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section III: Applicant's Health.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section III, must include evidence showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course, such as a doctor's certificate or other medical certificate. No fee is required for such a petition.

The petition includes a doctor's certificate that shows that the state of health of the applicant is such that he might not be available to assist in the prosecution of the application if it were to run in its normal course.

Accordingly, the petition is granted.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application

in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.
The petition is granted to the extent indicated.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES 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.

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JUN 0 4 2004

OFFICE OF PETITIONS

ON PETITION

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

In re Application of :
Nikolai Babich :
Application No. 10/192,523 :
Filed: July 11, 2002 :
Attorney Docket No. None :

This is a decision on the petition filed May 27, 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 September 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 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 2831 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : June 4, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Nikolai Babich
Application No. :10/192,523
Filed :July 11, 2002

The above-identified application has been assigned Patent No. 6,754,061 and an issue date of June 22, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 22, 2004:

"All reference to Patent No. 6,754,061 to Nikolai Babich of Ukraine for METHOD OF CONTROLLING MAGNETIC FLUX OF ELECTROMAGNET, AND ELECTROMAGNET IMPLEMENTING THE SAME in the Official Gazette of June 22, 2004 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES 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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

COPY MAILED

JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:
Nikolai Babich	: DECISION ON PETITION
Application No. 10/192,523	: UNDER 37 CFR 1.55(c)
Filed: July 11, 2002	:
For: METHOD OF CONTROLLING MAGNETIC FLUX OF ELECTROMAGNET, AND ELECTROMAGNET IMPLEMENTING THE SAME	:

This is a decision on the petition under 37 CFR 1.55(c), filed November 6, 2003, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Ukranian Application No. 2001129236, filed December 29, 2001. For the reasons indicated below, the "Notice of Returned Check" communication mailed July 23, 2004 is ***vacated***.

The petition under 37 CFR 1.55(c) is **granted**.

Addressing first the issue of the returned check, it is noted that, although the check for the issue and publication fees was returned as unpaid by the bank, the Issue Fee Transmittal Form PTOL-85(b) did in fact contain a deposit account number for charging any deficiency in the fees required by the Notice of August 12, 2003. A review of petitioner's deposit account for the date the fee was authorized discloses that there were sufficient funds in the deposit account to charge the issue and publication fees required by the Notice of August 12, 2003. Accordingly, no abandonment in fact occurred herein since the issue and publication fees were timely proffered. As authorized, these fees have been charged to petitioner's deposit account 26-0085, as well as the $50 fee for the returned check fee, as of July 27, 2004. The communication of July 23, 2004 also indicated that the petition to withdraw from issue filed on May 28, 2004 also lacked the $130 fee therefor. This fee, too, has, on July 27, 2004, been deducted from petitioner's deposit account in order to advance this application to issue. Therefore, the fees required by the communication mailed on July 23, 2004 are no longer outstanding.

Turning next to the petition under 37 CFR 1.55(c), a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on July 11, 2002, which is after November 29, 2000 and within 12 months of December 29, 2001 (the filing date of the foreign application to which benefit is now being claimed). On November 6, 2003, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.[1]

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

---

[1] The statement of unintentional delay does not comply with the provisions of 37 CFR 1.55(c)(3). Nevertheless, the statement presented will be construed as meaning that "the entire delay between the date that the claim was due under 37 CFR 1.55(a)(1)(I) and the date the claim was filed was unintentional."

A filing receipt accompanies this decision on petition.

It is noted that a Notice of Allowance and Issue Fee(s) Due was mailed on July 2, 2004. Petitioner must return the completed Issue Fee Transmittal Form PTOL-85(b) (along with any balance due) even though the issue fee was previously submitted to avoid the abandonment of the application. *Note* the decision on petition withdrawing the application from issue mailed June 4, 2004.

This application is being forwarded to Technology Center AU 2831 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of :
Nikolai Babich :
Application No. 10/192,523 : ON PETITION
Filed: July 11, 2002 :
For: METHOD OF CONTROLLING MAGNETIC :
FLUX OF ELECTROMAGNET, AND
ELECTROMAGNET IMPLEMENTING THE SAME

This is a decision on the petition, filed November 16, 2004, which is being treated as a petition under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Specifically, petitioner states that a request for continuing

examination and an information disclosure statement are included with the petition. However, the request for continuing examination and information disclosure statement stated to have been filed with the petition are not of record. It is noted that an information disclosure statement for Patent No. 3,458,769 was received on February 7, 2005, but still no record of the filing of a request for continued examination.

Further, there is no indication that the $130 fee for the instant petition was submitted.

In view of the above, the petition to withdraw from issue cannot be granted at this time. If petitioner desires to have this application withdrawn from issue, the request for continued examination, filing fee therefor (currently $395 for small entity), and $130 petition fee must be submitted. Petitioner is advised that this application is ready for issue. Therefore, a renewed petition to withdraw from issue and meeting the requirements of 37 CFR 1.313(c)(2) must be submitted and granted prior to issue. *Note* 37 CFR 1.313(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
(Fax number for 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

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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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

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SEP 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,762,314	:	
Application No. 10/192,537	:	
Filed: July 11, 2002	:	ON PETITION
Issued: July 13, 2004	:	
Attorney Docket No. 118493-40291766	:	

This is a decision on the petition filed July 14, 2005, which is being treated as a request under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request under 37 CFR 3.81 is **GRANTED**.

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John K. Lowther
Application No. 10/192,544
Filed: July 9, 2002
Attorney Docket No. 7066-1-CIP3

This is a decision on the petition, filed October 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 22, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: Robert D. Symonds	: DECISION ON REQUEST FOR
Patent Number	: 7627523	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/192,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1508** 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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RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 05/18/2010

Applicant : Robert D. Symonds
Patent Number : 7627523
Issue Date : 12/01/2009
Application No : 10/192,566
Filed : 07/09/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1528** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 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 of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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AUG 0 8 2006

INNOVAR, LLC
P O BOX 250647
PLANO TX 75025

In re Application of: BODMEIER, ROLAND Serial No.: 10/192,575 Filed: July 10, 2002 Docket: BOD-1 Title: IMPLANTS, PARTICLES	DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed on April 7, 2006 to withdraw the finality of the Office Action of February 23, 2006.

The petition is **DISMISSED as moot**.

In his April 7, 2006 petition the applicant requested the withdrawal of the finality of the Office Action dated February 23, 2006. In support of his petition, the applicant argues that November 21, 2005 amendment did not necessitate a new ground of rejection.

The record shows that:

1) On May 17, 2005, the examiner issued a non-final Office Action rejecting claims 1-17 and 29-30 under 102(e) in view of Lundsgaard et al., and Thomas. Claims 1-17 and 29-30 were also rejected under 102(b) in view of Wong et al., Kriesel et al., and Theeuwes. Claims 1-2 were also rejected under 102(e) in view of Barker et al.
2) On November 21, 2005 the applicant filed an amendment after non-final which amended Claim 1 and added Claims 35 and 36. In particular, the amendment to independent Claim 1 added the new limitations "a first container containing" and "comprising a polymer solution, and wherein the administrable carrier phase forms an implant or particles *in situ* after being placed in a body, on a body or under physiological conditions."
3) On February 23, 2006 the examiner issued a final Office Action rejecting Claims 1-17, 29-30 and 35-36. Claims 1-17 and 29-30 were rejected under 102(e) by Dunn et al., and Claims 35-36 were rejected under 102(e) and 103(a) by Dunn et al.
4) On April 7, the applicant filed the present petition. The applicant alleges that the rejection used a new ground of rejection that was not necessitated by the applicant's amendment to the claims.
5) On April 24, 2006 the applicant filed an amendment after final, which amended Claims 1, 14 and 35.

6) On May 9, 2006 the examiner issued an advisory action and refused entry of the April 24, 2006 amendments because the amendment to Claim 1 changed the scope of the claims. In particular, the examiner found the deletion of the phrase "at least a portion of" from Claim 1 to change the scope of the claims.
7) On June 19, 2006 the applicant filed a Request for Continued Examination along with an amendment after final. The applicant also included the amendment to the claims filed on April 24, 2006, and requested that the amendments be read in light of the petition filed on April 7, 2006.
8) On July 31, 2006 the examiner issued a non-final Office Action and withdrew the finality of the February 23, 2006 Office Action.

In view of the history, it appears that the amendment on November 21, 2005 changed the scope of Claim 1 by adding "a first container containing" and "comprising a polymer solution, and wherein the administrable carrier phase forms an implant or particles *in situ* after being placed in a body, on a body or under physiological conditions", and necessitated a new ground of rejection. Moreover, on July 31, 2006 the examiner treated the June 19, 2006 Request for Continued Examination and withdrew the finality of the previous Office Action. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Kawai et al.
Application No.10/192,593
Filed: July 11, 2002
Attorney Docket No.111862
Title of Invention: ACTION MANAGEMENT SUPPORT SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed March 7, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 11, 2002, without an executed oath or declaration. Accordingly, on August 8, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 8, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, statement of facts from Yukio Tsuru, and a partially executed declaration. To make timely a request for a five (5) month extension of time was submitted with the petition.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventors Rimoldi and Bassi refused to sign the declaration after having been presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). The declaration of facts states "ImpactXoft orally refused to

execute the document papers". To the extent rule 47 applicant contends that the inventors orally refused to execute the application papers, the declaration of facts does not state either of the inventors orally refused to execute the documents nor has evidence been presented that establishes that Mr. Welch represents inventors Rimoldi and Bassi. If the inventors orally refused to execute the declaration, rule 47 applicant should provide evidence which would allow for such a finding.

To the extent rule 47 applicant seeks to contend the application papers were mailed and the inventors failure to respond constitutes refusal sufficient evidence that the documents were presented to the inventors has not been provided. There is no indication rule 47 applicant inquired as to whether the application papers were forwarded to the inventors. (Rule 47 applicant has provided sufficient evidence to establish ImpactXoft received the application papers) Nor is there any indication rule 47 applicant provided a copy of the application papers to inventors Rimoldi and Bassi at their last known addresses.

As to item (2), where an inventor does not execute the oath or declaration, rule 47 applicant must provide the last known home address of the inventor. See MPEP 605.03. Inventors Rimoldi and Bassi last known home addresses must be provided to enable the Office to communicate directly with the inventors if necessary. The addresses can be submitted by a supplemental declaration pursuant to 37 CFR 1.67 or an application data sheet pursuant to 37 CFR 1.76.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Kawai et al.
Application No.10/192,593
Filed: July 11, 2002
Attorney Docket No.111862
Title of Invention: ACTION MANAGEMENT SUPPORT SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed July 8, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 11, 2002, without an executed oath or declaration. Accordingly, on August 8, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 8, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, statement of facts from Yukio Tsuru, and a partially executed declaration. To make timely a request for a five (5) month extension of time was submitted with the petition. A petition under 37 CFR 1.47 (a) was dismissed on May 8, 2003.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (2).

As to item (2), petitioner contends the last known home address of non-signing inventors Rimoldi and Bassi is not required because petitioner has provided the business address where both inventors customarily receive correspondence. Petitioner

relies on sections 409.03 and 605.03 of the MPEP for the proposition the last known home address is not required.

Petitioner is correct MPEP 605.03 does state applicant's mailing address means that address where he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. However, further reading of MPEP 605.03 indicates "In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address **must** be given to enable the Office to communicate directly with the inventor as necessary" [emphasis added].

Furthermore, MPEP 409.03 (e) states other addresses at which the non-signing inventor can be reached should be given. "In as much a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which nonsigning inventor may be reached should also be given". See MPEP 409.03.

Accordingly, the renewed petition under 37 CFR 1.47 (a) must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Motomasa Kawai, Attilio Rimoldi and Gian Paolo Bassi
Application No.10/192,593
Filed: July 11, 2002
Attorney Docket Number: 111862
Title of Invention: ACTION MANAGEMENT SUPPORT SYSTEM

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 7, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Yukio Tsuru attest the application papers were presented to the non-signing inventors and they orally refused to execute the application papers. The non-signing inventors' failure to execute the application papers sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Attilio Rimoldi
c/o ImpactXoft Incorporated
22A Great Oaks Blvd.
San Jose, California 95119

In re Application of
Motomasa Kawai, Attilio Rimoldi and Gian Paolo Bassi
Application No.10/192,593
Filed: July 11, 2002
Attorney Docket Number: 111862
Title of Invention: ACTION MANAGEMENT SUPPORT SYSTEM

LETTER

Dear Mr. Rimoldi:

You are named as a co-inventor In the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice In Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper In the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record In the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining In the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

JAMES OLIFF
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Gian Paolo Bassi
c/o ImpactXoft Incorporated
22A Great Oaks Blvd.
San Jose, California 95119

In re Application of
Motomasa Kawai, Attilio Rimoldi and Gian Paolo Bassi
Application No.10/192,593
Filed: July 11, 2002
Attorney Docket Number: 111862
Title of Invention: ACTION MANAGEMENT SUPPORT SYSTEM

LETTER

Dear Mr. Bassi:

You are named as a co-inventor In the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice In Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper In the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record In the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining In the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

JAMES OLIFF
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

cc: Gian Bassi
2548 Yerba Hills Court
San Jose, California 95121-2931

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Paper No. 5

OCT 2 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT PC
1755 JEFFERSON DAVIS HIGHWAY
FOURTH FLOOR
ARLINGTON VA 22202

In re Application of:
Marian Rudolf, et al.
Application No. 10/192,639
Filed: July 11, 2002
For: SYNCHRONIZATION SIGNAL FOR SYNCHRONIZING BASE STATIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 11, 2002, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

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In re Application of :
Tom Davis :
Application No. 10/192,661 : ON PETITION
Filed: 11 July, 2002 :
Attorney Docket No. 13678-US-CONT :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 23 December, 2004, to revive the above-identified application.

The petition is **GRANTED**.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 6 May, 2004, for failure to submit a proper reply to the final Office action mailed on 5 February, 2004, which set a three (3) month shortened statutory period for reply. On 5 May, 2004, petitioner submitted an amendment after final rejection. The amendment did not place the application in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 14 October, 2004. The filing of the present petition precedes the mailing of Notice of Abandonment.

The present petition is accompanied by a Request for Continued Examination and a reply as the required submission under 37 CFR 1.114.

The petition fee of $1,500.00 will be charged to counsel's deposit account, No. 13-1717, as authorized on the fee transmittal sheet accompanying the present petition.

The application is being referred to Technology Center Art Unit 2661 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: AUG 25 2004

spg
Paper Number _____

In re application of
Toshiyuki Baba et al.
Serial No. 10/192,665
Filed: July 11, 2002
For: CONDUCTIVE CAP, ELECTRONIC COMPONENT, AND METHOD OF FORMING INSULATING FILM OF CONDUCTIVE CAP

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR 711.03(c) II, originally filed January 15, 2004 and resubmitted on May 26, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed January 19, 2004, be withdrawn since the applicant did not receive the Notice of Allowance and Fee(s) Due mailed September 11, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Notice of Allowance and Fee(s) Due, mailed September 11, 2003. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Fee(s) Due, mailed September 11, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowance and Fee(s) Due was not received. Also provided is a copy of the attorney's application docket records where the Notice of Allowance and Fee(s) Due would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and Fee(s) Due originally mailed September 11, 2003 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Mary Clee for
Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KEATING & BENNETT LLP
Suite 312
10400 Eaton Place
Fairfax VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: AUG 2 5 2004 rvk

Paper Number: ____

In re application of :
Toshiyuki Baba et al : DECISION ON
Serial No. 10/192,665 : PETITION
Filed: July 11, 2002 :
For: CONDUCTIVE CAP, ELECTRONIC COMPONENT, AND METHOD OF FORMING INSULATING FILM OF CONDUCTIVE CAP :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR 711.03(c) II ,filed January 15, 2004. The petition requests withdrawal of any holding of the abandonment which may be issued for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 11, 2003. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due of September 11, 2003 were not received by the applicants. A Notice of Abandonment was mailed on January 19, 2004.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due of September 11, 2003 were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 11, 2003 were not received. Also provided is a copy of the Attorney's docket report (Issue Fees

Attorney Docket) showing all Notices of Allowance received from September 11, 2003 to December 31, 2003 where the issue fee due day for SN 10/192,665 would have been posted had the Notice of Allowability and Notice of Allowance and Issue Fee Due of September 11, 2003 been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due of September 11, 2003 to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

#10
DW

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OFFICE OF THE DIRECTOR
TC 3600

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of :
Robert J. Neugebauer :
Application No. 10/192,727 :
Filed: July 11, 2002 :
For: PASSENGER RAIL CAR SLIDING DOOR WITH HIGH PLATFORM THRESHOLD

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on February 20, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed June 16, 2003 is timely and has been matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed June 16, 2003, then to the examiner for prompt action on the response.

KJD/mjz: 5/13/04

Kenneth J. Dorner

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, NY 11747

COPY MAILED

FEB 24 2004

OFFICE OF PETITIONS

In re Application of :
B. Snedden, et al.
Application No.: 10/192,741 : ON PETITION
Filed: July 10, 2002 :
Attorney Docket No: :

This is in response to the petition under 37 CFR 1.137(b) filed February 10, 2004.

The petition under 37 CFR 1.137(b) is **granted**.

On August 9, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two -month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration, $130.00 surcharge, and the filing fee for the application. A proper response was not received within the allowable period, and the application became abandoned on October 10, 2002. A Notice of Abandonment was mailed on December 24, 2003.

The declaration filed February 10, 2004, is noted and made of record. The application filing fee and surcharge were also received on February 10, 2004.

The change of correspondence address filed February 10, 2004, is noted and made of record.

This application 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) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 25, 2007

TO SPE OF : ART UNIT 2800 (2138)

SUBJECT : Request for Certificate of Correction for Appl. No./10/192761 patent no.7178091

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: _____

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2117
Art Unit

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Bobby K. Truong
Hickman, Palermo, Truong & Becker, LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

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APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Faizel Lakhani et al.	:	
Application No. 10/192,766	:	DECISION ON PETITION
Filed: July 9, 2002	:	TO WITHDRAW
Attorney Docket No. 60010.0016	:	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 20, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 courtesy copy of this decision is being mailed to the first named inventor at the address noted in the Declaration for Patent Application, as well as to the address noted in the request.

A final rejection was mailed on March 19, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Faizel Lakhani
402 W. Sunnyoaks Avenue
Campbell, CA 95008

cc: Geoff Mattson
Sable Networks, Inc.
3171 Jay Street
Santa Clara, CA 95054

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SEP 02 2008

Hickman Palermo Truong &
Becker, LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

In re Application of	:	
Faizel Lakhani et al.	:	
Application No. 10/192,766	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. 60010-0016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of March 19, 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).

As to item 1, the amendment filed on February 25, 2008, does not *prima facie* place the application in condition for allowance, therefore 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 attached courtesy copy of an advisory action.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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Attachment: Courtesy copy of advisory action

cc: Stuart J. West
West & Associates, A PC
2815 Mitchell Drive, Suite 209
Walnut Creek, CA 94598

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/192,766	Applicant(s) LAKHANI ET AL.	
	Examiner Dmitry Levitan	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See 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): 46 and 57.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Dmitry Levitan/
Primary Examiner, Art Unit 2616

Continuation of 3. NOTE: Applicant's arguments filed 2/25/08 have been fully considered but they are not persuasive.
In the Final Office action of 3/19/07 Examiner indicated that claim 24 is allowable if rewritten all the limitations of the base claim and any intervening claims. However, the proposed amendment to claim 1 does not include all the required limitations. Claim 1 limitation, directed to "an identifier" is unclear, because it provides no structure for "an identifier", as the limitations directed to the internal interfaces of intervening claim 23 has been dropped.
New claim 108 does not comprise limitations of claims 1 and claim 22, contrary to Remarks on page 31.

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West & Associates
2815 Mitchell Drive
Suite 209
Walnut Creek, CA 94598

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FEB 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Faizel Lakhani et al. :
Application No. 10/192,766 :
Filed: July 9, 2002 :
Attorney Docket No. SABLE 01001 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of March 19, 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). A Notice of Abandonment was mailed on January 23, 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 RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition decision mailed September 2, 2008 dismissed the petition filed February 25, 2008 for failure to provide a proper reply to the Office action mailed on March 19, 2007. The renewed petition includes a proper reply along with a one month extension of time which was needed for a timely filed renewed petition.

A terminal disclaimer was filed along with the renewed petition on November 17, 2008. A terminal disclaimer was not necessary to grant this petition. The fee of $65.00 will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2616 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
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

WEST & ASSOCIATES, A PC
1255 Treat Blvd.
3rd Floor
WALNUT CREEK, CA 94597

Mail Date: 04/20/2010

Applicant	: Faizel Lakhani	: DECISION ON REQUEST FOR
Patent Number	: 7630358	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/192,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1804** 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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DAVID B. RITCHIE
THELEN REID & PRIEST
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Christopher J. Diorio et al	:	
Application No. 10/192,773	:	NOTICE
Filed: July 9, 2002	:	
Attorney Docket No. IMPJ-0017	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MONTREAL QC H2Z 2B7 CA CANADA

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OFFICE OF PETITIONS

In re Application of

Richard Auger

Application No. 10/192,793

Filed: July 11, 2002

Attorney Docket No. 000808-0077

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 8, 2004.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 11, 2004, after it was believed that no response was received to the non-final Office action mailed December 10, 2003. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on October 5, 2004, indicating that a reply to the notice was not received.

A review of the record did not reveal that an amendment responsive to the non-final Office, however, an Office date-stamped postcard by which the USPTO acknowledged receipt of the response to the non-final Office action on March 10, 2004, accompanied 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 shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3643, for further processing, including processing of the amendment first filed March 10, 2004, and a copy of which was filed on November 8, 2004.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of	:
Michael Siskin et al	:
Application No. 10/192,810	: DECISION GRANTING PETITION
Filed: July 10, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ESW-0209	:

This is a decision on the petition, filed February 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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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Finnegan, Henderson, Farabow, Garrett & Dunner LLP
901 New York Avenue, NW
Washington DC 20001-4413

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OFFICE OF PETITIONS

In re
Kaun
Application NO. 10/192818
Filed: July 10,2002
Atty Docket NO. 022981-0101

LETTER REGARDING
PATENT TERM ADJUSTMENT

This decision is in response to applicants' "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed on December 8, 2006 requesting that the Office review the PTA calculation .

The Office thanks applicants for their good faith and candor in bringing this issue to the attention of the Office.

Applicants letter regarding PTA is **granted.** The office will adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 234 days to a determination of 199 days.

Applicant disagreeing with this determination must file a reply within 30 days with the reasons why such decision is in error. No extensions of time will be granted under 37 CFR 1.1136.

Applicants assert that the Office erred in granting two hundred and thirty four days of PTA at the time of the mailing of the notice of allowance. Applicant did not expressly state where such error was made.

The USPTO notes that it entered into PALM application history that the RCE was submitted on August 22, 2005. However a view of the IFW file reflects that the RCE was submitted on September 26, 2006, a one-hundred day delay rather than the Office assessed delay of 65 days. [1] Accordingly, the overall amount of USPTO delay is 344 days and the correct amount of applicant delay is 145 days.

[1]The Office asserts that the delay was for the period beginning on June 19, 2005 and ending on September 26, 2006.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent.

Any delays in issuing the application pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will reflected in the issue notification letter mailed approximately three weeks prior to issuance of the application.

The Office has not assessed the $200.00 fee for the submission of this letter regarding PTA because this letter was a letter of good faith and candor.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation

Day : Wednesday

PALM INTRANET

Date: 1/31/2007
Time: 15:13:01

PTA Calculations for Application: 10/192818			
Application Filing Date:	07/10/2002	PTO Delay (PTO):	344
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	110
Post-Issue Petitions:	0	Total PTA (days):	199
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	01/31/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
50	11/15/2006	MAIL NOTICE OF ALLOWANCE			
49	10/16/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	10/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
47	10/16/2006	ISSUE REVISION COMPLETED			
46	10/16/2006	NOTICE OF ALLOWABILITY			
45	10/13/2006	DATE FORWARDED TO EXAMINER			
44	10/10/2006	AMENDMENT AFTER FINAL REJECTION		35	42
43	10/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	06/05/2006	MAIL FINAL REJECTION (PTOL - 326)			
41	05/30/2006	FINAL REJECTION			
40	03/20/2006	DATE FORWARDED TO EXAMINER			
39	03/13/2006	RESPONSE AFTER NON-FINAL ACTION		4	38
38	12/09/2005	MAIL NON-FINAL REJECTION			
37	12/07/2005	NON-FINAL REJECTION			
36	09/27/2005	DATE FORWARDED TO EXAMINER			
35	08/22/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	09/27/2005	DATE FORWARDED TO EXAMINER			
33	08/22/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		65	26
32	09/27/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
28	08/22/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	08/22/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			

26	03/18/2005	MAIL FINAL REJECTION (PTOL - 326)			
25	03/17/2005	FINAL REJECTION			
24	01/04/2005	NEW OR ADDITIONAL DRAWING FILED			
23	01/18/2005	DATE FORWARDED TO EXAMINER			
22	01/04/2005	RESPONSE AFTER NON-FINAL ACTION		6	20
21	01/04/2005	WORKFLOW INCOMING AMENDMENT IFW			
20	09/29/2004	MAIL NON-FINAL REJECTION			
19	09/28/2004	NON-FINAL REJECTION			
18	09/24/2004	DATE FORWARDED TO EXAMINER			
17	09/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
16	09/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	08/19/2004	MAIL RESTRICTION REQUIREMENT	344		-1
14	08/18/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
13	11/14/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	11/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/27/2002	PRELIMINARY AMENDMENT			
10	10/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	09/24/2002	APPLICATION DISPATCHED FROM OIPE			
8	09/20/2002	APPLICATION IS NOW COMPLETE			
6	08/29/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	08/29/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	08/07/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	07/22/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/10/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/20/08 **Paper No.:**____

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192833 Patent No: 7284623 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved In Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ **SPE** 3626 **Art Unit**

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Paper No. 7

Shlesinger, Arkwright & Garvey, LLP
3000 South Eads Street
Arlington, VA 22202

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JAN 30 2004

OFFICE OF PETITIONS

In re Application of
Ira M. Kay
Application No. 10/192,845
Filed: July 11, 2002
Attorney Docket No. 6863-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 30, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 30, 2002.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $665 for the petition to revive fee, $385 for the filing fee, $65 surcharge for the late filing fee, an amendment and $190 for claim fees.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUITE 1001
NEW YORK NY 10020

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ON PETITION

In re Application of	:
Shlomo Lewkowicz et al	:
Application No. 10/192,861	:
Filed: July 11, 2002	:
Attorney Docket No. P-4370-US	:

This is a decision on the petition, filed January 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3736 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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In re Application of :
Hisakazu Kataoka et al. :
Application No. 10/192,862 : DECISION ON PETITION UNDER
Patent No. 6,870,293 : 37 C.F.R. §3.81(B)
Filed: July 11, 2002 :
Issue Date: March 22, 2005 :
Attorney Docket Number: :
YMOR:258 :
Title: MOTOR

This is a decision on the petition filed June 21, 2005 under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "Kabushiki Kaisha Toyota Jidoshokki (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set 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.

1 See Official Gazette, June 22, 2004.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on August 22, 2002 (Reel/Frame 013202/0672). This was prior to the payment of the Issue Fee on January 26, 2005.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The Change of Correspondence Address has been entered and made of record.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OFFICE OF PETITIONS

In re Application of	:	
Hui Tseng	:	
Application No. 10/192,885	:	ON PETITION
Filed: July 9, 2002	:	
Attorney Docket No. FP8772	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed August 13, 2002. A Notice of Abandonment was mailed on January 26, 2004.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an abstract commencing on a separate sheet and $180 for multiple dependent claim fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination 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

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MAIL CODE 140.1
GREENBELT MD 20771

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OFFICE OF PETITIONS

In re	:
Shirron, et al.	: DECISION ON APPLICATION
Application No. 10/192,886	: FOR PATENT TERM ADJUSTMENT
Filed: July 10, 2002	: AND
Patent No. 6,959,554	: NOTICE OF INTENT TO ISSUE:
Issued: November 1, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed October 25, 2005, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0)** days.

On November 1, 2005, the above-identified application matured into U.S. Patent No. 6,959,554. The patent issued with a Patent Term Adjustment of twenty-four (24) days. Patentees state that should have been assessed applicant delay for their late response to a Notice to File Corrected Application Papers mailed on July 31, 2002.

The Office mailed a Notice to File Corrected Application Papers, requiring substitute drawings, on July 31, 2002. On January 6, 2003, Applicants filed substitute drawings, made timely for purposes of avoiding abandonment by obtaining a three month extension of time and by including a Certificate of Mailing dated December 30, 2002. Accordingly, pursuant to 37 C.F.R. § 1.704(b), applicant delay of sixty-seven (67) days should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (114 (6+108) days of PTO delay, reduced by 257 (67+90) days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

No petition fee was required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **zero (0)** days subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction (1 page)

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Roche Diagnostics Corporation, Inc.
9115 Hague Road
PO Box 50457
Indianapolis IN 46250-0457

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OFFICE OF PETITIONS

In re Application of :
Akenbauer, et al. :
Application No. 10/192,902 : ON PETITION
Filed: July 11, 2002 :
Attorney Docket No. 19097 US :
For: NEW COMPOSITION AND METHOD FOR HOT START NUCLEIC ACID AMPLIFICATION

This is a decision on the petition under 37 CFR 1.137(b), filed on April 3, 2006 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely and properly respond to the final Office action mailed September 6, 2005, which set an extendable three month period for reply. Applicants filed an amendment on November 7, 2005 which failed to place the application in prima facie condition for allowance, as was explained in the December 19, 2005 Advisory Action. Accordingly, this application became abandoned on December 7, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and amendment in reply to the September 6, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 6, 2005 final Office action, and the petition fee. Therefore, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,590.00 extension of time submitted with the petition on April 3, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

After the mailing of this decision the application will be forwarded to Technology Center AU 1637 for consideration of the RCE and amendment filed on April 3, 2006.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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PO Box 50457
Indianapolis IN 46250-0457

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In re Application of
Akenbauer, et al.
Application No. 10/192,902
Filed: July 11, 2002
Attorney Docket No. 19097 US
For: NEW COMPOSITION AND METHOD FOR HOT START NUCLEIC ACID AMPLIFICATION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on April 3, 2006 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely and properly respond to the final Office action mailed September 6, 2005, which set an extendable three month period for reply. Applicants filed an amendment on November 7, 2005 which failed to place the application in prima facie condition for allowance, as was explained in the December 19, 2005 Advisory Action. Accordingly, this application became abandoned on December 7, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and amendment in reply to the September 6, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 6, 2005 final Office action, and the petition fee. Therefore, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,590.00 extension of time submitted with the petition on April 3, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

After the mailing of this decision the application will be forwarded to Technology Center AU 1637 for consideration of the RCE and amendment filed on April 3, 2006.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of
Raghunathan, Skiles, and Davis
Application No.: 10/192,904
Filed: July 10, 2002
Attorney Docket No:00-2829
For: ALUMINUM PAPER

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 23, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The instant petition was filed in response in to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed August 12, 2002, which indicated a that proper oath or declaration for the named inventors had not been filed and that a surcharge of $130.00 was due, consequently. The Notice set forth an extendable period for reply of two months from its mailing date. On October 23, 2002 , in response to the Notice, petitioner filed a request for an extension of time within the first month, the instant petition, declarations for all named inventors except inventor Davis, and other documents evidencing inventor Davis' constructive refusal to join the above-cited application.

Petitioner established that, although inventor Davis was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he constructively refused to execute the declaration and the join the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to 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
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Richard Davis
8 Bromwich House
45 Hawson Terrace,
Richmond, Surrey
TW 10 6RU England

AIRMAIL

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of
Taghunathan, Skiles, and Davis
Application No.10/192,904
Filed: July 10, 2002
Attorney Docket Number:00-2829
For: ALUMINUM PAPER

LETTER

Dear Mr. Davis:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As the a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Alcoa, Inc.
Alcoa Technical center
100 Technical Drive
Alcoa Center, PA 15069-0001

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. 11

DAVID L HOFFMAN
THE LAW OFFICES OF DAVID L HOFFMAN
27023 MCBEAN PARKWAY
SUITE 422
VALENCIA CA 91355

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OFFICE OF PETITIONS

In re Application of Ronald A. Holland Application No. 10/192,947 Filed: July 11, 2002 Attorney Docket No. 02-10524	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 5, 2003.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on July 11, 2002, without an executed oath or declaration. Accordingly, on August 26, 2002, applicant 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 a petition under 37 CFR 1.47(b) on December 4, 2002, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant purchased a one month extension of time and included a Certificate of Mailing dated November 26, 2002. Accompanying the petition were, *inter alia*: (1) a 37 CFR 1.63 declaration signed by Richard Unwin, the President of Hemisphere Group, Inc., the assignee of the above-identified application; (2) a declaration of facts by David L. Hoffman, describing the efforts made to procure inventor Ronald A. Holland's signature on the declaration; and (3) a copy of a cover letter from Hoffman to the last known address of Holland, dated September 16, 2002, transmitting the application papers.

However, the 37 CFR 1.47(b) petition was dismissed in a decision mailed on May 2, 2003. The declaration was not in compliance with 37 CFR 1.63, because it did not state the full name, residence, post office address, and citizenship of inventor Holland. In addition, the declaration failed to state the title or position of Unwin.

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 after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4)

a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage.

With the renewed petition, applicant has submitted a declaration in compliance with 37 CFR 1.63. Applicant previously satisfied the other requirements for a grantable petition under 37 CFR 1.47(b) in the petition filed on December 4, 2003.

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.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

DAVID L HOFFMAN
THE LAW OFFICES OF DAVID L HOFFMAN
27023 MCBEAN PARKWAY
SUITE 422
VALENCIA CA 91355

COPY MAILED

MAY 02 2003

OFFICE OF PETITIONS

In re Application of Ronald A. Holland Application No. 10/192,947 Filed: July 11, 2002 Attorney Docket No. 02-10524	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed December 4, 2002.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 11, 2002, without an executed oath or declaration. Accordingly, on August 26, 2002, applicant 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, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, petitioner purchased a one month extension of time and included a Certificate of Mailing dated November 26, 2002. Accompanying the petition were, *inter alia*: (1) a 37 CFR 1.63 declaration signed by Richard Unwin, the President of Hemisphere Group, Inc., the assignee of the above-identified application; (2) a declaration of facts by David L. Hoffman, describing the efforts made to procure inventor Ronald A. Holland's signature on the declaration; and (3) a copy of a cover letter from Hoffman to the last known address of Holland, dated September 16, 2002, transmitting the application papers.

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 after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), applicant has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[1]

Here, the declaration fails to state the full name, residence, post office address, and citizenship of nonsigning inventor Holland. Rather, the declaration lists that information for Unwin. Furthermore, the declaration does not state the title or position of Unwin, the person signing the declaration on behalf of the Hemisphere Group.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 10, 2006

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/192,958 Patent No.: 7,029,608

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: _____

Carmi McDermott — **SPE**

3738 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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JUL 24 2009

OFFICE OF PETITIONS

In re Patent No. **6,936,126**	:	
Issue Date: August 30, 2005	:	
Application No. 10/192,959	:	NOTICE UNDER
Filed: July 11, 2002	:	37 CFR 1.28(c)
Attorney Docket No. **48675/KMO/T67**	:	

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) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 2005

TIMOTHY JAMES PICKENS
1017 SYLVIA LANE
TAMPA, FL 33613

JUN 2 4 2005

In re Application of: TIMOTHY JAMES PICKENS Serial No.: 10/192,983 Filed: July 11, 2002 Title: DUAL LAMPSHADE SYSTEM WITH MOTION EFFECTS	:	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on September 7, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

An Office action (Notice of Allowance and Fee(s) Due) was mailed April 9, 2004, setting a three-month statutory period for reply. In the apparent absence of receipt of a response, a Notice of Abandonment was mailed on August 13, 2004.

Petitioner asserts that applicant did not receive the Office action. In support of the assertion, petitioner submitted as evidence of lack of receipt of the Office action 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 docket report indicates that the Office communication was not received.

A review of the file record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the

Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

As petitioner is prosecuting the application pro se, no docketing records of the type discussed in M.P.E.P. § 711.03(c) would have been kept. Applicant's statement of non-receipt which attests to the fact that a search of applicant's file records indicates that the action was not received is deemed sufficient under these circumstances to show that no response was received.

Accordingly, the Notice of Abandonment mailed August 13, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The Notice of Allowability originally mailed April 9, 2004 will be remailed. A new Notice of Allowance and Fee(s) Due will be mailed with the Notice of Allowability. The mailing of a new Notice of Allowance and Fee(s) Due will set a new non-extendable due date for the payment of the Issue Fee.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 7

MAILED

JUN 02 2003

Technology Center 2600

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

In re Application of :
Galperin et al. :
Application No. 10/193,102 :
Filed: July 10, 2002 :
For: SYSTEM AND METHOD FOR PRE-FFT OFDM FINE SYNCHRONIZATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 7, 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.**

Michael N. Haynes is removed from the record, since he is the only attorney/agent specifically mentioned in the request. All attorneys associated with Customer No. 27,628 remain of record, since there is no indication to remove these attorneys/agents. Customer Number 34,060 is also requested to be withdrawn but is not associated with the file.

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.

For Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: OREN SEMICONDUCTOR, LTD.
C/O REINHOLD COHN & PARTNERS
PO BOX 4060
TEL AVIV 61040
ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 7

SEP 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

In re Application of
KILBANK
Application No. 10/193,116
Filed: July 12, 2002
For: SYSTEM AND METHOD FOR COMPRESSING DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on July 29, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys of Customer No. 24633 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:
KILBANK
8186 INVERNESS RIDGE ROAD
POTOMAC, MD 20854

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JJGJR.: 87-07

Paper No: __

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AUG 0 6 2007

OFFICE OF PETITIONS

LARGE SCALE
BIOLOGY CORPORATION
3333 VACA VALLEY PARKWAY
SUITE 1000
VACAVILLE CA 95688

In re Application of	:	
Pogue, et al.	:	DECISION
Application No.: 10/193,142	:	
Filing Date: 12 July, 2002	:	
Attorney Docket No. 44008	:	

This is a decision on the petition filed on 30 October, 2006, to revive the instant application under 37 C.F.R. §1.137(a) as having as abandoned due to unavoidable delay; alternatively, under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**; and the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

Fees Due mailed on 17 October, 2005, with reply due under a non-extendable deadline on or before 17 January, 2006;[1]

- the application went abandoned by operation of law after midnight 17 January 2006;
- the Office mailed the Notice of Abandonment on 9 October, 2006;
- on 30 October, 2006, Petitioner filed the instant petitions (with fees), a reply in the form of the fees due, and averred the financial failing of the assignee, but provided no official documentation thereof (e.g., bankruptcy filings (redacted)), and also made the statement of unintentional delay.

---

[1] Petitioner erroneously refers to a possible extension of time in this matter. As one registered to practice before the Office, Petitioner is aware of the Commentary at MPEP §1306, to wit:

1306Issue Fee [R-5]

The issue fee and any required publication fee are due 3 months from the date of the Notice of Allowance. The amount of the issue fee and any required publication fee are shown on the Notice of Allowance**>. The Notice of Allowance will also< reflect any issue fee previously paid in the application. >The issue fee due does not reflect a credit for any previously paid issue fee in the application. If an issue fee has previously been paid in the application as reflected in the Notice of Allowance, the return of Part B (Fee(s) Transmittal form) will be considered a request to reapply the previously paid issue fee toward the issue fee that is now due.< For example, if the application was allowed and the issue fee paid, but applicant withdrew the application from issue and filed a Request for Continued Examination (RCE) and the application was later allowed, the Notice of Allowance will reflect an issue fee amount that is due ** and the issue fee that was previously paid. Had applicant filed a Continued Prosecution Application (CPA) instead of an RCE, the **>Notice of Allowance< would not reflect any issue fee paid before the CPA was filed because the issue fee was paid in a prior application. Note that because the amount of the fees(s) due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the fees(s), the amount due at the time the fee(s) are paid may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the fees(s), to determine whether the amount of the issue fee due or any required publication fee has changed to avoid the patent lapsing for failure to pay the balance of the issue fee due (37 CFR 1.317) or becoming abandoned for failure to pay the publication fee. The amounts due under 35U.S.C. 41(a) (i.e., the issue fee, but not the publication fee) are reduced by 50 per centum for small entities.

Applicants and their attorneys or agents are urged to use the Fee(s) Transmittal form (PTOL-85B) provided with the Notice of Allowance when submitting their payments. Unless otherwise directed, all post allowance correspondence should be addressed "Mail Stop Issue Fee."

Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b). In addition, where the deposit account information is added to the Fee(s) Transmittal form (PTOL-85B), but the check box authorizing that the deposit account be charged the issue fee is not checked, the deposit account will still be charged the required issue fee and any required publication fee.

Technology Center personnel should forward all post allowance correspondence to the Office of Initial Patent Examination (OIPE). The papers received by the OIPE will be scanned and matched with the appropriate application and the entire application will be forwarded to the appropriate Technology Center for processing.

The payment of the issue fee due may be simplified by using a U.S. Patent and Trademark Office Deposit Account or a credit card payment with form PTO-2038 for such a fee. See MPEP § 509. However, any such payment must be specifically authorized by reference to the "issue fee" or "fees due under 37 CFR 1.18."

The fee(s) due will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34*.

The Director has no authority to extend the time for paying the issue fee. Intentional failure to pay the issue fee within the 3 months permitted by 35 U.S.C. 151 does not amount to unavoidable or unintentional delay in making payment. (Emphasis supplied.)

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to
Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unintentional delay satisfactory to the director, a proper reply, and–where appropriate--a terminal disclaimer and fee.

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears as of this writing that Petitioner has not made a satisfactory showing of unavoidable delay in that proper documentation and detail of the financial condition of the assignee has not been made, and there is no demonstration that the Assignee did not pay other costs/fees in priority to the fees due herein.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears as of this writing that Petitioner now has satisfied "statement/showing" requirement under the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **dismissed**; the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RAJESH VADAVIA
5624 ST-PATRICK
SUITE 500
MONTREAL QC H4E 1AB CA CANADA

COPY MAILED

NOV 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Rajesh Vadavia	:	
Application No. 10/193,161	:	DECISION ON PETITION
Filed: July 12, 2002	:	
For: ADAPTIVE DATA ARCHITECTURE FOR INFORMATION MANAGEMENT SYSTEMS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 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 October 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 13, 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 $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of October 12, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2165 for appropriate action in the normal course of business on the reply received May 8, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 23 2005

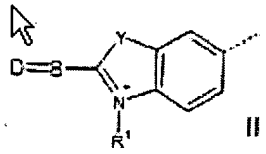
MILLEN, WHITE, ZELLANO & BRANNIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Kai Licha et al	:
Serial No.: 10/193,187	: PETITION DECISION
Filed: July 12, 2002	:
Attorney Docket No.: SCH-1723 D1	:

This is in response to the petition under 37 CFR 1.144, filed February 11, 2005, requesting withdrawal or modification of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims numbered 31-50, as presented in a Preliminary amendment (claims 1-30 were canceled). In a first Office action, mailed June 29, 2004, the examiner set forth a restriction requirement comprising 18 groups based on the definitions of D and B in Formula II. The requirement is summarized as follows:

Formula II is:  II

D is one of structures III, IV, V or VI all of which are different fused ring systems; however IV and V differ only in presence of an alkyl group and are grouped together;

B is one of structures VII, VIII, IX, X, XI or XII;

The groups are comprised of the various combinations of B and D

The examiner reasoned that the various structures are unrelated to each other, have different modes of operation and cannot be used together. The examiner further required an election of species.

Applicants replied on September 20, 2004, electing Group III and electing the species of example 8 for further prosecution with traverse. Applicants argued that the inventions are not distinct, have a common core and are classified in the same class and subclass.

The examiner mailed a new Office action to applicants on December 15, 2004, responding to the traversal arguing that the core structures are not the same and made the requirement Final. The examiner further indicated claims 31-50 allowable insofar as the elected group was concerned and requested cancellation of non-elected subject matter. The action was mailed under *ex parte Quayle.*

Applicants replied on February 11, 2005, by amending the claims to limit D to structure III and B to structures VII, VIII, IX, X and XI, thus canceling some of the non-elected subject matter. Applicants continued the traverse of the restriction requirement as being not in conformance with the M.P.E.P. Applicants concurrently filed this petition for withdrawal of the restriction requirement.

DISCUSSION

Applicants argue that the restriction requirement was made under M.P.E.P. 806.04 and 808.01 and states that the inventions are unrelated and not capable of use together and have different modes of operation. However, applicants contend that no showing was ever made by the examiner to support the above conclusions. Applicants also note that all groups were classified in the same class and subclass indicating that there is not a great distinction between them and no burden on the Office to search the entire Markush Group.

A review of the structures on which restriction was originally based shows that D relates to three distinct and different fused ring structures each of which may support separate patents. However B (other than structure XII) appears to be an alkyl chain of variable length with alternating double and single bonds. In some cases a ring structure is formed with adjacent chain carbons, however attachment is always through the chain carbons. In view of the similarity of the B structures, requiring restriction therebetween would not be proper.

In view of the above determination the restriction requirement should be between the three different D structures as combined with B structures VII-XI or B structure XII, for a total of six groups. Applicants amendment has limited the claims to one structure for D and only structures VII-XI for B. No restriction is required between these variables.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for further action on all of the amended claims not inconsistent with this decision.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Stevem I. Weisburd & Salvatore P. Tamburo
DICKSTEIN, SHAPIRO, MORIN & OSHINSKY LLP
41st Floor
1177 Avenue of the Americas
New York NY 10036-2714

MAILED
JUN 0 2 2003
Technology Center 2100

In re Application of: WEBER et al. Application No. 10/193,193 Attorney Docket No. S0595.0072/P072 Filed: July 12, 2002 For: ISSUE TRACKING SYSTEM AND METHOD	))))))	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) – ACCELERATED EXAMINATION**

This is a decision on the petition to make special, filed March 13, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **GRANTED**.

For such petitions, MPEP 708.02 states:

> Any petition to make special should:
> (A) be in writing; and
> (B) identify the application by application number and filing date.

The petition satisfies both of these requirements.

As for other specific requirements of 37 CFR §1.102(d) in accordance with MPEP 708.02(VIII), these include:

> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers

or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.

If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.

If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition fully satisfies each of these criteria. By "Applicant's will make an election" in the case of a restriction requirement, it is understood that this includes established telephone election practice.

Therefore, the Petition is **GRANTED**.

The application file will be forwarded to the Technology Center support staff and the application will be designated as special.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

BJP

UNITED STATES PATENT AND TRADEMARK OFFICE

4-11-06

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,8~~8~~20,725
Inventor(s) : John V. Kostigian, et. al.
Issued : November 23, 2004
Title : SAFETY BRAKE ASSEMBLY
Docket No. : 1517-10

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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.

In view of the foregoing, your request is hereby denied.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Dennis S. K. Leung
Shapiro Cohen
P.O. Box 3440
Station D
Ottawa, On Canada K1p 6p1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-25-06

TO SPE OF : ART UNIT [redacted]

SUBJECT : Request for Certificate of Correction on Patent No.: 6820725 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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

Reconsideration for deletion of Assignee
Thanks

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**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-26-07

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6820725 B2 10/193209

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 response A/S/A/P. The Applicant has called 2 or 3 times. Thanks

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ SPE _____ Art Unit

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SHAPIRO COHEN
P.O. BOX 3440
STATION D
OTTAWA ON K1P6P-1 CA CANADA

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Patent No. 6,820,725 :

Issue Date: November 23, 2004 :

Application No. 10/193,209 : ON PETITION

Filed: July 12, 2002 :

Attorney Docket No. **1517-10**

This is a decision on the "Request under 37 CFR 3.81(b)" filed June 28, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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Alexandria, VA 22313-1450
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OCT 19 2005

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

In re Application of	:	
Gholam A. Peyman	:	DECISION PETITION
Serial No.: 10/193,266	:	
Filed: July 12, 2002	:	
For: Integrated System for Correction of	:	
Vision of the Human Eye	:	

This is in response to applicants' petition filed July 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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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.

BUCHANAN INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

SEP 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Gourdol et al.	:	DECISION ON APPLICATION
Application No. 10/193,269	:	FOR
Filed: July 12, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. P1951USC1-891	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed July 2, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred and ninety-four (194) days to four hundred and sixty-four (464) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred and sixty-four (464)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 6, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 194 days. On July 2, 2009, applicants timely[1] filed the instant application for patent term adjustment. Applicants dispute the reduction of 331 days, pursuant to 37 CFR 1.704(b), for applicant delay in filing a response to the Office action mailed November 25, 2005 on January 22, 2007, three months and 331 days later. Applicants maintain that the Office action mailed November 22, 2005 was never received. The Office mailed a duplicate Office action and restarted the period for response. Further, applicants filed a Request for Continued

[1] Office records show that the Issue Fee payment was also received on July 2, 2009.

Examination on January 22, 2007, three months and 61 days after the re-mailing of the Office action. Consequently, Applicants maintain that the proper period of applicant delay associated with this response is not 331 days, but rather 61 days.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 194 days is incorrect. In this instance, applicants are correct that the delay in responding to the Office action should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As the response that was in compliance with 37 C.F.R. § 1.113(c) was received three months and 61 days after the mailing of the Office action with the restarted period for response (the re-mailed Office action), 61 days (as opposed to 331 days) of applicant delay within the meaning of § 1.704(b) should have been associated with this response. The period of reduction of 331 days has been removed, and a period of reduction of 61 days has been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is four hundred and sixty-four (464) days (589 days of Office delay minus 125 days of Applicant delay).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The Office of Data Management has been advised of this decision. The application is, thereby, being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Tuesday
Date: 9/1/2009
Time: 10:17:39

PTA Calculations for Application: 10/193269			
Application Filing Date:	07/12/2002	PTO Delay (PTO):	589
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	395
Post-Issue Petitions:	0	Total PTA (days):	464
PTO Delay Adjustment:	270		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	09/01/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
79	09/01/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	331		
67	04/06/2009	MAIL NOTICE OF ALLOWANCE			
66	03/30/2009	ISSUE REVISION COMPLETED			
65	03/30/2009	DOCUMENT VERIFICATION			
64	03/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	03/30/2009	CASE DOCKETED TO EXAMINER IN GAU			
62	03/24/2009	EXAMINER'S AMENDMENT COMMUNICATION			
61	03/24/2009	NOTICE OF ALLOWABILITY			
58	01/15/2009	DATE FORWARDED TO EXAMINER			
57	01/12/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
56	01/15/2009	DATE FORWARDED TO EXAMINER			
55	01/12/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	46
54	01/15/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
53	01/12/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	01/12/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	11/18/2008	EMAIL NOTIFICATION			
50	11/07/2008	LETTER REQUESTING INTERVIEW WITH EXAMINER			
49	11/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
48	11/12/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	08/22/2008	CORRESPONDENCE ADDRESS CHANGE			

46	08/11/2008	MAIL FINAL REJECTION (PTOL - 326)			
45	08/11/2008	FINAL REJECTION			
44	06/04/2008	DATE FORWARDED TO EXAMINER			
43	05/13/2008	RESPONSE AFTER NON-FINAL ACTION			
42	02/13/2008	MAIL NON-FINAL REJECTION			
41	02/11/2008	NON-FINAL REJECTION			
39	12/03/2007	DATE FORWARDED TO EXAMINER			
38	11/02/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
37	12/03/2007	DATE FORWARDED TO EXAMINER			
36	11/02/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
35	12/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
34	11/02/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	09/26/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	09/25/2007	FINAL REJECTION			
31	07/24/2007	DATE FORWARDED TO EXAMINER			
30	07/10/2007	RESPONSE AFTER NON-FINAL ACTION			
29	04/10/2007	MAIL NON-FINAL REJECTION			
28	04/04/2007	NON-FINAL REJECTION			
27	02/09/2007	DATE FORWARDED TO EXAMINER			
26	01/22/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
25	02/09/2007	DATE FORWARDED TO EXAMINER			
24	01/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		331	14
23	02/09/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
22	01/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
21	12/07/2006	MAIL ADVISORY ACTION (PTOL - 303)			
20	12/06/2006	ADVISORY ACTION (PTOL-303)			
19	12/01/2006	DATE FORWARDED TO EXAMINER			
18	11/22/2006	AMENDMENT AFTER FINAL REJECTION			
17	08/22/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
16	08/22/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
15	08/22/2006	CORRESPONDENCE ADDRESS CHANGE			

14	11/25/2005	MAIL FINAL REJECTION (PTOL - 326)	18		11
13	11/22/2005	FINAL REJECTION			
12	09/19/2005	DATE FORWARDED TO EXAMINER			
11	07/07/2005	RESPONSE AFTER NON-FINAL ACTION		2	10
10	04/05/2005	MAIL NON-FINAL REJECTION	571		-1
9	04/04/2005	NON-FINAL REJECTION			
8	10/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
7	04/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	09/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	07/12/2002	PRELIMINARY AMENDMENT			
4	08/22/2002	APPLICATION DISPATCHED FROM OIPE			
3	08/21/2002	APPLICATION IS NOW COMPLETE			
2	07/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/12/2002	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

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BUCHANAN INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Arno Gourdol	: DECISION ON REQUEST FOR
Patent Number	: 7600197	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/193,269	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

MAIL

JUN 12 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

In re Application of :
CEN, LING :
Application No. 10/193,290 :
Filed: July 12, 2002 :
For: ARRANGEMENTS FACILITATING :
ORDERED TRANSACTIONS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 23, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the Request except for Hung H. Bui are granted the request for withdraw, since this attorney does not appear to be of record. All other attorneys remain of record, since there is no indication to remove these attorneys. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

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
For Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: GRACE ABERCROMBIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94086

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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Paper No. 6

PETER KAUFMAN
58-133 MAMAO STREET
HALEIWA, HI 96712

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Peter A. Kaufman :
Application No. 10/193,346 : ON PETITION
Filed: July 12, 2002 :
For: SLEEPING STRAP :

This is a decision on the petition under 37 CFR 1.137(f), filed July 15, 2004, which is being treated under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 28, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 29, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

---

[1] A copy of the 37 CFR 1.137(b) form is enclosed.

As to item (1), effective October 1, 2003, the independent claims in excess of three were increased from $42.00 to $43.00 (5 X 43).[2] Therefore, an additional $5.00 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[3]

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] Effective October 1, 2004, the independent claims in excess of three will be to $44.00.

[3] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

PETER KAUFMAN
58-133 MAMAO STREET
HALEIWA, HI 96712

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Peter a. Kaufman	:	
Application No. 10/193,346	:	ON PETITION
Filed: July 12, 2002	:	
For: SLEEPING STRAP	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Wan Laymon

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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May 15, 2006

Anthony B. Diepenbrock, III
DECHERT, LLP
P. O. Box 10004
Pal Alto, CA 94603-0961

Patent No.: 6861824 B1
Application No.: 10/193381
Inventor(s): Kwang H. Liu, et al.
Issued: Mar.1 2005
Title: CHARGER SYSTEM WITH DUAL-LEVER CURRENT REGULATION AND DUAL-LEVEL THERMAL REGULATION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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JUN 14 2005

TECHNOLOGY CENTER 3600

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

In re application of
Michael G. Nahas
Application No. 10/193,397 :
Filed: July 11, 2002 :
For: SHEET METAL HANGING METHODS :
AND HANGING MEMBERS THEREFOR

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on April 18, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys listed in the request and (Customer Number 21324) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Stephen L. Grant is not associated with Customer No. 21324. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/26/05

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of Winget et al. :
Application No. 10/193,407 : Decision on Petition
Filing Date: July 11, 2002 :
Attorney Docket No. VEI 0240 PUS1 :

This is a decision on the petition under 37 CFR 1.181, filed August 11, 2005, to withdraw the holding of abandonment.

The petition is **granted** to the extent indicated below.

Facts:

The Board of Patent Appeals and Interferences rendered a decision on July 22, 2005.

On August 5, 2005, the Office mailed two Notices of Abandonment. The signature on one Notice is dated July 27, 2005, and the signature on the other Notice is dated August 3, 2005.

The instant petition was filed on August 11, 2005. An amendment was filed with the application.

A continuation application, Application No. 11/226,010, was filed on September 14, 2005.

Analysis:

37 CFR 1.304(a)(1) states,

> The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences.

Proceedings for the application are terminated. However, as stated in the petition, the date of termination is September 23, 2005. As a result, Application No. 11/226,010 does have copendency with the instant application.

The prior Notices of Abandonment are hereby vacated.

Technology Center Art Unit 1700 will be informed of the instant decision. The examiner may wish to consider the amendment filed prior to the termination of proceedings. However, petitioner should note that the Board Decision closed prosecution and amendments are usually only entered at this stage when the amendment was suggested in an explicit statement by the Board under 37 CFR 41.50(c). A new Notice of Abandonment will be mailed to ensure the date of abandonment is correctly shown in the file wrapper and correctly shown in the PTO computer system.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MAY 23 2007

OFFICE OF PETITIONS

HOGAN & HARTSON LLP
ONE TABOR CENTER SUITE 1500
1200 SEVENTEEN ST
DENVER CO 80202

In re Application of	:	
Graham W. Stewart	:	
Application No. 10/193,428	:	ON PETITION
Filed: July 11, 2002	:	
Attorney Docket No. P8056	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 11, 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 pay the issue fee in response to the Notice of Allowance, mailed December 4, 2006. This Notice set a statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 5, 2007. A Notice of Abandonment was mailed on April 5, 2007.

With the instant renewed petition, petitioner has submitted a satisfactory docket record, showing all replies docketed for the date of March 4, 2007. An entry for the instant application is absent, supporting the conclusion that the December 4, 2006 Notice of Allowance was not received.

The matter is being forwarded to Group Art Unit 2136 for re-mailing of the December 4, 2006 Notice of Allowance, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-08-08

TO SPE OF : ART UNIT ~~2136~~ 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/193428** Patent No.: **7281139**

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: _____

Nasser Moazzami — **SPE**

2436 — **Art Unit**

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Paper No.

Stanford University Office of
Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Perez et al.	:	DECISION ON APPLICATION
Application No. 10/193,462	:	FOR
Filed: July 10, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. STAN-478	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705" filed March 5, 2009. Pursuant to their duty of good faith and candor to the Office, applicants request review of the determination of patent term adjustment at the time of the mailing of the Notice of Allowance.

The request for review of patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred thirty-five **(235)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 30, 2008, the Office mailed a 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 381 days. The instant application for patent term adjustment was timely filed[1] after the mailing of the

[1] PALM records indicate that the issue fee was paid on March 5, 2009.

notice of allowance and no later than the payment of the issue fee.

The record supports a conclusion that this application is not subject to a terminal disclaimer.

A review of the application history confirms that applicants characterization of the basis for and amounts of the adjustments and reductions of patent term in this application are correct. Accordingly, the following adjustments of patent term calculation have been made:

- For the response filed May 1, 2006, a period of reduction of 62 days pursuant to 37 CFR 1.704(c)(8) has been removed and a period of reduction of 1 day pursuant to 37 CFR 1.704(b) for delay in responding to the Office action mailed has been entered;
- For the Office Notice of Non-Compliant Amendment mailed July 14, 2006, a period of adjustment of 16 days pursuant to 37 CFR 1.703(a)(2) has been removed. There was no associated Office delay;
- For the response filed December 7, 2006, a period of reduction of 220 days pursuant to 37 CFR 1.704(c)(7) for delay in correcting the omission in the response filed May 1, 2006 (See also Notice of Non-compliant Amendment mailed December 1, 2006) is being entered;
- For the response filed December 4, 2008, a period of reduction of 64 days pursuant to 37 CFR 1.704(c)(8) is being removed. The record supports a conclusion that the response was expressly requested by the examiner (See Examiner Interview summary dated November 21, 2008);
- For the IDS filed November 5, 2008, a period of reduction of 35 days pursuant to 37 CFR 1.704(c)(8) is being entered. The IDS was not expressly requested by the examiner and did not include a §1.704(d) statement.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is being corrected from three hundred eighty-one (381) days to two hundred thirty-five (235) days (699 days of Office delay reduced by 28 + 1 + 220 + 90 + 90 + 35 of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to 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).

Receipt is acknowledged of the Notification of Change of Entity Status also filed March 5, 2009. A response will be issued under separate cover.

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 adjusted PALM PTA calculations

Day : Thursday
Date: 5/21/2009

PALM INTRANET

Time: 11:49:07

PTA Calculations for Application: 10/193462			
Application Filing Date:	07/10/2002	PTO Delay (PTO):	715
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	334
Post-Issue Petitions:	0	Total PTA (days):	235
PTO Delay Adjustment:	-146		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
116	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
115	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	62		
114	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
113	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		16	
112	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		220	
111	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	64		
103	12/30/2008	MAIL NOTICE OF ALLOWANCE			
102	12/24/2008	ISSUE REVISION COMPLETED			
101	12/24/2008	DOCUMENT VERIFICATION			
100	12/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
99	12/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
97	12/08/2008	NOTICE OF ALLOWABILITY			
96	11/21/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
95	12/05/2008	DATE FORWARDED TO EXAMINER			
94	12/04/2008	SUPPLEMENTAL RESPONSE		64	84
93	11/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	11/05/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
86	11/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	10/24/2008	DATE FORWARDED TO EXAMINER			
84	10/01/2008	RESPONSE AFTER NON-FINAL ACTION		90	81
83	10/01/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
		ELECTRONIC INFORMATION DISCLOSURE			

82	03/10/2008	STATEMENT		0	75
81	04/03/2008	MAIL NON-FINAL REJECTION			
80	03/31/2008	NON-FINAL REJECTION			
79	03/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	03/11/2008	DATE FORWARDED TO EXAMINER			
77	03/10/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
76	03/11/2008	DATE FORWARDED TO EXAMINER			
75	03/10/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
74	03/11/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
73	03/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	03/10/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
71	03/10/2008	CORRESPONDENCE ADDRESS CHANGE			
70	09/11/2007	NOTICE OF APPEAL FILED		90	60
69	09/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	08/01/2007	MAIL ADVISORY ACTION (PTOL - 303)			
67	07/27/2007	ADVISORY ACTION (PTOL-303)			
66	07/05/2007	DATE FORWARDED TO EXAMINER			
65	06/29/2007	AMENDMENT AFTER FINAL REJECTION			
64	06/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	06/13/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
62	12/13/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	03/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
59	03/05/2007	FINAL REJECTION			
58	09/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	08/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	12/20/2006	DATE FORWARDED TO EXAMINER			
55	12/07/2006	RESPONSE AFTER NON-FINAL ACTION			

54	12/01/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
53	11/27/2006	MISCELLANEOUS ACTION WITH SSP			
52	09/19/2006	DATE FORWARDED TO EXAMINER			
51	09/11/2006	SUPPLEMENTAL RESPONSE			
50	09/08/2006	REFERENCE CAPTURE ON IDS			
49.7	09/08/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
49	09/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46.7	08/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/07/2006	NEW OR ADDITIONAL DRAWING FILED			
44	08/11/2006	DATE FORWARDED TO EXAMINER			
43	08/07/2006	RESPONSE AFTER NON-FINAL ACTION			
42	07/14/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	16		33
41	07/10/2006	MISCELLANEOUS ACTION WITH SSP			
40	05/01/2006	NEW OR ADDITIONAL DRAWING FILED			
39	05/04/2006	DATE FORWARDED TO EXAMINER			
38	05/01/2006	SUPPLEMENTAL RESPONSE		62	33
37	03/10/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
36	03/09/2006	CORRESPONDENCE ADDRESS CHANGE			
35	03/10/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	03/09/2006	DATE FORWARDED TO EXAMINER			
33	02/28/2006	RESPONSE AFTER NON-FINAL ACTION			
32	02/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	02/16/2006	CORRESPONDENCE ADDRESS CHANGE			
30	01/31/2006	MAIL NON-FINAL REJECTION			
29	01/23/2006	NON-FINAL REJECTION			
28	12/29/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
27	12/22/2005	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
26	12/22/2005	RECEIPT OF ALL ACKNOWLEDGEMENT			

		LETTERS			
25	10/20/2005	DATE FORWARDED TO EXAMINER			
24	10/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
23	10/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	08/09/2005	MAIL RESTRICTION REQUIREMENT	699		-1
21	08/04/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/31/2003	RECEIPT OF ACKNOWLEDGMENT LETTER			
18	02/19/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	01/07/2003	APPLICATION DISPATCHED FROM OIPE			
16	12/31/2002	APPLICATION IS NOW COMPLETE			
13	12/20/2002	ADDITIONAL APPLICATION FILING FEES		28	7
12	12/20/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	12/20/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
10	12/20/2002	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
9	09/26/2002	RECEIPT OF ACKNOWLEDGMENT LETTER			
8	09/03/2002	LETTER TO APPLICANT - NO GOVERNMENT INTEREST / PATENT TO ISSUE			
7	08/22/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	08/01/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	08/01/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	08/01/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	08/01/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/29/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/10/2002	INITIAL EXAM TEAM NN			

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Bozicevic, Field & Francis LLP
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Suite 200
East Palo Alto CA 94303

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JUN 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Perez et al.	:	
Application No. 10/193,462	:	LETTER REGARDING
Filed: July 10, 2002	:	FEE DEFICIENCY PAYMENT
Atty Docket No. STAN-478	:	

This is a notice regarding your letter entitled NOTIFICATION OF CHANGE OF ENTITY STATUS UNDER 37 C.F.R. §1.28(c)(1&2), notifying the Office of loss of entitlement to small entity status.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

The instant request includes an itemization and payment of the deficiency in payment of the fees.

Your notification of a loss of entitlement to small entity status is made of record and your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 11 2010

OFFICE OF PETITIONS

General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
300 Renaissance Center
P.O. Box 300
Detroit MI 48265-3000

In re Application of	:	
Mazzara	:	
Application No. 10/193,488	:	DECISION ON PETITION
Filed: July 11, 2002	:	PURSUANT TO
Attorney Docket No.: GP-302207	:	37 C.F.R. § 1.181
Title: METHOD AND SYSTEM FOR STORING IOTA ALERT MESSAGE REQUESTS FOR A VEHICLE COMMUNICATIONS SYSTEM INTO A QUEUE	:	

This is a decision on the petition filed June 2, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned due to the February 5, 2009 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on April 6, 2009, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on April 28, 2009.

With this petition, Petitioner has asserted that the holding of abandonment should be withdrawn due to the fact that no action was required on his part, and has cited to MPEP § 1214.06(II), which indicates that subsequent to the rendering of a decision by the Board of Patent Appeals and Interferences, if claims stand allowed:

1 See MPEP § 1216.

> The appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed. For paper files, a red-ink line should be drawn through the refused claims and the notion "Board Decision" written in the margin in red ink.
>
> If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or ex parte reexamination certificate with claim 3 only.
>
> If the Board affirms a rejection against independent claim 1, reverses all rejections against dependent claim 2 and claim 3 is allowed, after expiration of the period for further appeal, the examiner should either:
>
> (A) Convert dependent claim 2 into independent form by examiner's amendment, cancel claim 1 in which the rejection was affirmed, and issue the application with claims 2 and 3; or
>
> (B) Set a 1-month time limit in which appellant may rewrite dependent claim 2 in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel claims 1 and 2 and issue the application with allowed claim 3 only. The following form paragraph may be used where appropriate:

The electronic file has been reviewed, and it is clear that "[c]laims 22-23 (are) allowed."[2] Consequently, pursuant to the portion of the MPEP reproduced above, this application should have been remanded to the Examiner for further processing of the allowed claims.

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 no action was necessary on his part.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the allowed claims can receive further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal

---

2 Examiner's Answer, page 2. section 3. See also decision of the Board for Patent Appeals and Interferences, page 1.

of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: James D. Stevens
P.O. Box 4390
Troy, Michigan 48099

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. Box 450A
Santa Clara,CA 95052

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JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Bok Hoen Kim, et al.	:	
Application No. 10/193,489	:	ON PETITION
Filed: July 11, 2002	:	
Atty Docket No. AMAT/6826/DSM/BCVD/JW	:	

This is a decision on the petition, filed June 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 12, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated April 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]

A review of the application file record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

---

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being forwarded to Technology Center AU 2818 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

cc: Robert W. Mulcahy
MOSER, PATTERSON & SHERIDAN, LLP
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056

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555 11TH STREET N.W.
WASHINGTON DC 20004

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AUG 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,176,241	:
Issued: February 13, 2007	: DECISION ON APPLICATION
Application No. 10/193,526	: FOR PATENT TERM ADJUSTMENT
Filed: July 9, 2002	:
Attorney Docket No.: 2903602-009000	:
	:

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT", under 37 C.F.R. 1.705(d) and for a suspension of the rules pursuant to 37 CFR § 1.183, all of which were filed on December 1, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On February 13, 2007, the above-identified application matured into U.S. Patent No. 7,176,241, with a revised patent term adjustment of 187 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a request for reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed "PETITION FOR PATENT TERM ADJUSTMENT". Patentee makes this request in view of the decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008) since petitioner could not have known of the future change in law which occurred on September 30, 2008.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on February 17, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 1, 2007. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by April 17, 2007, the date two months from the date this patent issued, February 13, 2007. Rather, on December 1, 2008, nearly two months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C.

154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is that petitioner could not have known of the future change in law which occurred on September 30, 2008 in the Wyeth decision.

In Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner argues that they could not have filed a request for reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the request for reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative

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[2] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. — (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **DISMISSED**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT", filed December 1, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to six hundred twenty-five (625) days.

On February 13, 2007 the above-identified application matured into U.S. Patent No. 7,176,241 with a revised patent term adjustment of 187 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on February 13, 2007.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the fee for the petition under 37 CFR 1.183 in the amount of $400.00.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Kenknight et al. :
Application No. 10/193,549 :
Filed: July 9, 2002 :
Attorney Docket Number: :
13569.38US01 : ON PETITION

This is a decision on the petition filed November 12, 2004, requesting a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed October 15, 2004, is no longer required. As the examiner has concurred, the requested relief has been favorably considered.

This application is being referred to Technology Center AU 3736 for correction of PALM and file records consistent with this decision.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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IRVINE, CA 92614-7319

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OFFICE OF PETITIONS

In re Application of :
Alvin J. Glasky et al :
Application No. 10/193,550 :
Filed: July 9, 2002 :
Attorney Docket No. 370143.103 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1614 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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Patrick S. Yoder
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Gopal B. Avinash	: DECISION ON REQUEST FOR
Patent Number	: 7599579	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/193,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1159** 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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JERRY W. MILLS, ESQ.
BAKER BOTTS LLP
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:
James L. Haws et al	:
Application No. 10/193,571	: DECISION GRANTING PETITION
Filed: July 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 004578.1263	:

This is a decision on the petition, filed November 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 August 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 4/21/05

meb
Paper Number: _____

In re application of
Hifumi Nagai, et al

Serial No. 10/193,576
Filed: July 11, 2002
For: Copper Alloy Foil

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed March 17, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 11, 2005 for failure to timely respond to the Office Action mailed July 30, 2003, be withdrawn. The petitioner asserts that the applicant timely responded to the Office Action on January 30, 2004 and that the Office subsequently issued a Notice of Non-Responsive Amendment on April 13, 2004, to which the applicant responded with a Supplemental Amendment on May 10, 2004. The Office subsequently issued a Notice of Non-Compliant Amendment on May 25, 2004. The petitioner indicated that the Office was contacted by telephone to indicate that the Notice of Non-Compliant Amendment was in error, because the Supplemental Amendment of May 10, 2004 did provide a complete listing of the claims. The petitioner indicates that the Office would withdraw the Notice of Non-Compliant Amendment and consider the Supplemental Amendment of May 10, 2004. Such withdraw did not occur and the Notice of Abandonment was issued on January 11, 2005.

DECISION

The instant 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 and the application papers indicates that the request does have merit.

The evidence presented is sufficient to establish that the Notice of Non-Compliant Amendment was in error. The Supplemental Amendment of May 10, 2004 did provide a complete listing of the claims.

Therefore, the Notice of Abandonment of January 11, 2005 is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt consideration of the Supplemental Amendment of May 10, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

C. BRUCE HAMBURG
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
NEW YORK, NY 10168

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GLADYS H. MONROY
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application of
Maria Antonia Buil Albero et al
Application No. 10/193,622
Filed: July 10, 2002
Attorney Docket No. 251502007600

: 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 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/15169, filed December 20, 2001, set forth in the amendment and an application data sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was

[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).

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 10, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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. § 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 365(c) to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted as of the date of filing the petition.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1614 for processing the amendment filed March 28, 2003 and for processing and consideration by the examiner of the claim under 35 U.S.C. § 365(c) and 37 CFR 1.78(a)(3) for the benefit of priority to the prior-filed applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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HOUSTON, TX 77027

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OFFICE OF PETITIONS

In re Application of
Parker
Application No. 10/193,629
Filed: July 11, 2002
Attorney Docket No. Williford-001

ON PETITION

This decision concerns the March 24, 2004 petition under 37 CFR 1.137(b) which asserts non-receipt of a USPTO notice and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

On August 7, 2002, a "Notice to File Missing Parts of Nonprovisional Application" ("8/7/02 Notice") was mailed, stating that the application lacked a properly signed oath or declaration, and that the drawings filed did not comply with the margins requirement of 37 CFR 1.84. Applicant was given an extendable 2-month reply period. No response was filed on or before March 7, 2003, and no extension of time under 37 CFR 1.136(a) was obtained. The application was held abandoned on October 8, 2002. The petition asserts non-receipt of the 8/7/02 Notice.

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1] The showing required to overcome this presumption consists of:[2]

(1) a statement from the practitioner:

(A) stating that the Office action was not received by the practitioner;

(B) attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the Office action would have been docketed had it been received.

---

1 1156 OG 53 (Oct. 25, 1993). The 8/7/02 Notice was mailed to counsel's current address.

2 *Id.*

The petition meet all the requirements set forth above, and is thus granted.

The holding of abandonment in the instant application is hereby withdrawn, and the December 24, 2003 Notice of Abandonment vacated.

No petition fee is owed, and none was charged to counsel's deposit account.

In addition, the Office acknowledges receipt with the petition of a signed declaration, and a set of substitute drawings which have been approved by the draftsperson. As authorized, the $65 surcharge (small entity) for late filing of a proper oath/declaration has been charged to Deposit Account No. 13-2166. The application is now complete.

The application file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

In re Application of :
Schnock, et al. : LETTER REGARDING PTA
Application No. 10/193,635 :
Filed: July 11, 2002 :
Atty. Dkt. No.: RJF 7865 :

This letter is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT" filed April 20, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

The correct Patent Term Adjustment ("PTA") at the time of the issuance is 8 days.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of eight days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the PTA of 25 days is thought to be longer than appropriate, and believe that the application should have been accorded an adjustment of eight days.

In accordance with 37 CFR 1.702(a)(1), an adjustment of 173 days can be attributed to the Office. The adjustment began September 12, 2003, the day after the date that is 14 months from the date that the application was filed, and ended March 2, 2004, the date the first non-final Office action was mailed. *See*, 37 CFR 1.703(a)(1).

The adjustment of 173 days, however, is reduced a total of 165 days in accordance with 37 CFR 1.704.

The adjustment of 173 days is reduced 109 days in accordance with 37 CFR 1.704(c)(8) in connection with the submission of an IDS on August 24, 2004. The reduction began May 7, 2004, the day

after the date a response to the non-final Office action mailed March 2, 2004 was submitted, and ended August 24, 2004, the date of submission of the IDS.

The adjustment of 173 days is further reduced 56 days in accordance with 37 CFR 1.704(c)(8) in connection with the submission of an IDS on December 16, 2004. The reduction began October 21, 2004, the date a response to the second non-final Office action, mailed September 1, 2004, was filed, and ended December 16, 2004, the date of submission of the IDS.

Accordingly, at the time of allowance, the patent was entitled to an adjustment of 173 days under 37 CFR 1.702. The adjustment of 173 days is reduced 165 days for applicants' failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704, yielding an overall PTA at the time of issuance of 8 days, as indicated by applicants.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Publications Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 4

Law Offices of Dick and Harris
Suite 3800
181 West Madison Street
Chicago IL 60602

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DEC 1 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Howard Popeck, David Popeck,	:	
and Neil Batchelor	:	
Application No. 10/193,665	:	DECISION GRANTING
Filed: July 11, 2002	:	PETITION
Attorney Docket No. 2020842	:	
Title: EVALUATION AND	:	
ASSESSMENT SYSTEM	:	

This is a decision on the "Partial Response to the Notice of Incomplete Nonprovisional Application", filed September 18, 2002, which is properly treated as a petition under 37 CFR §1.53(b), requesting that the above identified application be accorded a filing date of July 11, 2002, with fourteen (14) sheets of informal drawings as part of the original disclosure.

On July 11, 2002, the above-identified application was filed. On August 12, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had not been accorded a filing date, and advising applicant that one would be accorded when drawings were filed.

In response, on September 18, 2002, applicants filed the present petition. The petition is further accompanied by fourteen (14)

sheets of drawings and a copy of applicants' postcard receipt acknowledging receipt of fourteen (14) sheets of drawings in the United States Patent and Trademark Office (Office) on July 11, 2002. Applicants request that these fourteen (14) sheets of drawings be accorded a filing date of July 11, 2002.

Upon review of the record, the fourteen (14) sheets of drawings has not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 11, 2002, included these fourteen (14) sheets of drawings, and they were subsequently misplaced in the Office. Therefore, the application, including fourteen (14) sheets of drawings, was complete on filing and entitled to a filing date of July 11, 2002.

Accordingly, the petition is **GRANTED**.

The Notice mailed August 12, 2002 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 11, 2002, using the fourteen (14) sheets of drawings submitted on September 18, 2002.

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. Petitioner may locate this form on the PTO's website. The direct URL is:

http://www.uspto.gov/web/forms/sb0123.pdf

Any inquiries related to this decision should be directed to

Petitions Attorney Paul Shanoski at (703) 305-0011.

for

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Greenburg Traurig P.C.
77 West Wacker Dr.
Suite 2500
Chicago, IL 60601

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GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO IL 60601-1732

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Popeck, et al. :
Application No. 10/193,665 :
Filed: July 11, 2002 :
Attorney Docket No. 2020842 :
For: EVALUATION AND ASSESMENT SYSTEM

This is a decision on the petition filed December 6, 2004 (certificate of mailing date November 30, 2004) under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Restriction Requirement, mailed April 14, 2004, which set an extendable period for reply of one (1) month. Having received no reply, the Office considered the application abandoned on May 15, 2004. A Notice of Abandonment was mailed on November 1, 2004.

The Office received a proper Change of Correspondence Address for this application on September 2, 2003. Unfortunately, the Office did not promptly enter the change of correspondence address. This error resulted in the April 14, 2004 Restriction Requirement being mailed to the previous correspondence address of record and the subsequent return of the correspondence on April 27, 2004. The Change of Correspondence Address was not entered into Office databases until October 27, 2004.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn and the November 1, 2004 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

There is no need to re-mail the Office action in question, as petitioners have submitted a response to it with the present petition.

After the mailing of this decision, the application will be forwarded to Technology Center AU 3715 for consideration of the response to the April 14, 2004 Restriction Requirement, filed on December 6, 2004 (certificate of mailing November 30, 2004).

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

10-27-04

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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Patent No. : 6,750,949
Inventor(s) : Loopstra, et. al.
Issued : June 15, 2004
Title : LITHOGRAPHIC APPARATUS AND DEVICE MANUFACTURING METHOD

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 Code of Federal Regulations (CFR) 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee (see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481, pgs.1400-64). Such a petition is required, when the *correct* assignee's name *and/or* address *was not provided* in accordance with either section 3.81(a) or (b) (either no data or an incorrect data, i.e. typographical, misspelling, ...), was provided in item 5 of the Issue Fee Transmittal (PTOL-85b), when the assignment had been recorded or submitted for recordation at the time the issue fee was paid or when 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 is hereby denied.

A petition to correct the Assignee under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment(s) is recorded or proof of the date the assignment was submitted for recordation.

In the Petition, Applicant(s) may request that the file is forwarded to Certificates of Correction Branch, for issuance of a Certificates of Correction, if the Petition is granted. No additional request and PTOL 1050 forms, must be submitted, *if only* correction to Assignee data was requested and noted on the PTOL 1050 form, accompanying the original request.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Mail Stop Petitions
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn.: Office of Petitions

If the Petition under 37 CFR 1.183 is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100, if not previously submitted), due to the mistake in not complying with CFR 3.81.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 305-8047 or (703) 305-8228

Jack S. Barufka
Pillsbury Winthrop
P.O. Box 10500
McLean, Virginia 22102

ej

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Patent No. 6,750,949	:	
Issue Date: June 15, 2004	:	
Application No. 10/193,688	:	ON PETITION
Filed: July 12, 2002	:	
Attorney Docket No. 081468/0292926	:	

This is a decision on the petition under 37 CFR 3.81[1] filed December 10, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee), to correct and add an additional assignee on the front page of the above-identified patent.

The petition is **granted**.

A review of the record confirms that while petitioner supplied two (2) assignee names on the Fee(s) Transmittal form (PTOL-85b), filed February 13, 2004, the Office printed only one assignee on the front page of the patent. Since the error was no fault of petitioner, the $400 petition fee, and $100 Certificate of Correction fee are unnecessary, and will refunded to petitioner's deposit account.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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[1] *See Official Gazette of June 22, 2004*

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

DAVID H. JAFFER
PILLSBURY WINTHROP LLP
2550 HANOVER STREET
PALO ALTO CA 94304-1115

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SEP 24 2003

OFFICE OF PETITIONS

In re Application of	:	
Ashvin Desai	:	DECISION ON PETITION
Application No. 10/193,721	:	UNDER 37 CFR 1.137(f)
Filed: 10 July, 2002	:	
Atty Docket No. 87001-0293009	:	

This is a decision on the Petition under 37 CFR 1.137(f), filed on 22 August, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;[1] (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition is in compliance with the requirements of

[1]The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

37 CFR 1.137(f). Accordingly, applicant's failure to notify the Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date, 1 January, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center 3700, for examination in due course.

Telephone inquiries specifically concerning this decision be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attch: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 51705 Paper No.: _____

TO SPE OF : ART UNIT 1742
D-VAIGNTING

SUBJECT : Request for Certificate of Correction on Patent No.: 6860983

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 change to the claim be made?

R Johnson
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Roy V. Craig
SPE

1742
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE: N. Norton

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/06

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/193,810 Patent No.: 7008554

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: - N/A

Nadine Norton

Nadine Norton — **SPE**

1765 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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AKIN GUMP STRAUSS HAUER & FELD, LLP
P O BOX 688
DALLAS TX 75313-0688

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Khaw et al.	:	
Application No. 10/193,834	:	DECISION ON PETITION
Filed: 11 July, 2002	:	
Atty Docket No. 210149.417	:	

This is a decision on the petition filed on 25 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 February, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 4 November, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 26 April, 2006.

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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)).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kenneth J. Hovet
Nordman, Cormany, Hair & Compton
Sixth Floor
1000 Town Center Drive
Oxnard, CA 93030

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APR 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 6,789,692 :
Issue Date: September 14, 2004 :
Application No. 10/193,839 : ON PETITION
Filed: July 11, 2002 :
Patentee(s): Louis M. Prezelin :

This is a decision on the petition under 37 CFR 1.378(c), filed on February 19, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Daniel M. Chambers appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The proper surcharge for payment after expiration is $1,640. Since the maintenance fee was paid outside the six (6) months grace period, the $65 surcharge submitted with the present petition is unnecessary and will be refunded to petitioner by Treasury Check, in due course.

A courtesy copy of this decision is being mailed to the address given in the present petition. Thereafter, all future correspondence will be mailed to the address of record.

If petitioner desires to receive future correspondence regarding maintenance fees for the above patent, the appropriate power of attorney or authorization of agent and a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted (*See USPTO forms PTO/SB/47 and PTO/SB/125*).

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Daniel M. Chambers
c/o Portfolio IP
P.O. Box 52050
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,920,731 :
Issue Date: July 26, 2005 :
Application No. 10/193,840 : NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 12, 2002 :
Attorney Docket No. 79633.1662 :

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 **DIMISSED**.

37 CFR 1.28(c) 2 (ii) states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> (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. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> (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.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application
Wolfgang Holla
Application No. 10/193,872
Filed: July 12, 2002
Attorney Docket No. DEAV2001/0035
US NP

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed August 4, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred forty-three (243) days to two hundred sixty-five (265) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred sixty-five **(265)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred forty-three days. On August 4, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred sixty-five (265) days. Applicants dispute the reduction of twenty-nine (29) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed August 12, 2002.

The Office initially determined a patent term adjustment of two hundred forty-three

[1] PALM records indicate that the Issue Fee was received in the Office on August 4, 2004

(243) days based on an adjustment for PTO delay of two hundred seventy-two (272) 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 twenty-nine (29) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 272 days has been reviewed and found to be correct. The reduction of twenty-nine (29) days of applicant delay is at issue.

The reduction of 29 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed August 12, 2002, is of record in the application with a date of receipt by the Office of November 19, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as December 11, 2002 or assessed applicants a delay of twenty-nine (29) days. The response was filed outside the period under 37 CFR 1.704(b), but only by 7 days. Accordingly, applicant's delay should have been assessed as seven (7) days. Applicants did fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application, but only by 7 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred sixty-five (265) days.

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been charged to deposit account no.18-1982, per the authorization in the petition. No additional fees are required.

The Office will refer the matter to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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OFFICE OF PETITIONS

AVENTIS PHARMA DEUTSCHLAND GMBH
INDUSTRIEPARK HOCHST/BUILDING K801
FRANKFURT AM 65926 DE GERMANY

In re Patent No. 6,908,752	: DECISION ON REQUEST FOR
Issued: June 21, 2005	: RECONSIDERATION OF
Application No. 10/193,872	: PATENT TERM ADJUSTMENT
Filed: July 12, 2001	: AND
Attorney Docket No. **DEAV2001/0035**	: NOTICE OF INTENT TO ISSUE
US NP	: CERTIFICATE OF CORRECTION

This is a decision on the "COMBINED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE ISSUE NOTIFICATION (37 C.F.R. § 1.705) AND STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS(ES) UNDER §1.702 FOR THE ADJUSTMENT (37 C.F.R. 1.705(b)(2)(i) and (ii)" filed August 2, 2005.

The request is **GRANTED**.

On June 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was two hundred forty-three days. On August 4, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred sixty-five (265) days. Applicants disputed the reduction of twenty-nine (29) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed August 12, 2002.

On June 21, 2005, the above-identified application matured into U.S. Patent No. 6,908,752, with a revised PTA of three hundred forty-four (344) days. The instant application for PTA, filed August 2, 2005, was timely filed within two months of the patent grant. Patentees maintain that the patent should have issued with a patent term adjustment of 464 days.

On May 4, 2005, a decision granting the August 4, 2004 "Application for Patent Term

[1] PALM records indicate that the Issue Fee was received in the Office on August 4, 2004.

Adjustment", advised that because the response to the Notice to File Missing Parts was not filed within the three-month period under 37 CFR 1.704(b), the response was received seven days over the three-month period for reply and accordingly, applicant's delay should have been assessed as seven (7) days. Applicant was further advised that the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred sixty-five (265) days.

After the issuance of the patent however, additional delays have been recorded that again have caused the Patent Term to adjust. Specifically, 199 days were added for PTO delay in issuance of the patent and 120 days were deducted for applicant delay for a miscellaneous incoming letter filed on August 4, 2004. A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of an Application for Patent Term Adjustment, filed August 4, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

The submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section. *See 37 CFR 1.704(e).*

In view thereof, the patent term adjustment should be four hundred sixty-four **(464)** days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred sixty-four (464) days

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Patricia Faison-Ball at (571) 272-3212.

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 : 6,908,752 B2

DATED : June 21, 2005

INVENTOR(S) : Wolfgang Holla

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 (344) days

Delete the phrase "by 344 days" and insert – by 464 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

ROBERT A. KOONS, JR.
BUCHANAN INGERSOLL, P.C.
ELEVEN PENN CENTER, 14TH FLOOR
1835 MARKET STREET
PHILADELPHIA PA 19103-2984

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of	:
Ceusters et al.	: DECISION DISMISSING
Application No. 10/193,886	: PETITION
Filed: 12 July, 2002	:
Attorney Docket No. 47310.1	:

This is a decision on the petition captioned under 37 CFR 1.53(e)(2) concerning the Notice to File Missing Parts of Nonprovisional Application mailed on 1 November, 2002.

The petition is Dismissed.

On 12 July, 2002, the above-identified application was filed.

On 1 November, 2002, a Notice was mailed, stating, *inter alia,* that the duplicate sets of compact discs submitted with the application papers do not contain all of the files listed in the specification as shown on the disc directory printout showing file names, dates of creation and sizes.

In response, on 22 November, 2002, the present petition was filed. Petitioners argue that the duplicate set of compact discs do in fact contain all of the files listed in the specification. Petitioners note that Page 1 of the specification states that "[t]wo identical copies of the source code listing, volume name L&C, comprising 959 files, 6,598,598 bytes are provided on compact discs created on 4 July, 2002."

37 CFR 1.52(e)(5) states:

> The specification must contain an incorporation-by-reference of the material on the compact disc in a separate paragraph (§ 1.77(b)(4)), identifying each compact disc by the names of the files contained on each of the compact discs, their date of creation and their sizes in bytes. The Office may require applicant

to amend the specification to include in the paper portion any part of the specification previously submitted on compact disc.

The petition is dismissed because petitioners have not complied with 37 CFR 1.52(e)(5). While petitioners have provided a summary statement on Page 1 of the specification referencing two compact discs and stating the total number of files and file size, 37 CFR 1.52(e)(5) requires applicants to provide in the specification a listing of the names of each of the files contained on each of the compact discs, as well as their date of creation and size in bytes. It is also noted that petitioners have failed to provide the incorporation-by-reference statement required by 37 CFR 1.52(e)(5). In the absence of a listing of all of the files in compliance with 37 CFR 1.52(e)(5), the Office has no means of verifying that all of the files referenced in the specification are actually contained on the compact discs submitted with the application papers.

Applicant is entitled to a filing date of 12 July, 2002, using the application papers and compact discs submitted on that date. However, the Notice mailed 1 November, 2002, correctly stated that the required file listing appeared to have been omitted. Accordingly, the petition is dismissed, and the petition fee will not be refunded.

It is noted that the petition is accompanied by a listing of the files contained on the compact discs filed with the application papers. Petitioners should file a preliminary amendment in compliance with 37 CFR 1.52(e)(5) incorporating by reference the material on the compact disc in a separate paragraph (§ 1.77(b)(4)), and identifying each compact disc by the names of the files contained on each of the compact discs, their date of creation, and their size in bytes prior to the first action on the merits.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

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

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Patent, Copyright & Trademark Law Group, LLC
137 South Main Street
Suite 202
Akron, OH 44308

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OFFICE OF PETITIONS

In re Application of :
Chad S. Compton :
Application No. 10/193,887 : ON PETITION
Filed: July 12, 2002 :
Attorney Docket No. 1202.0006 :

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**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed January 24, 2005. Accordingly, this application became abandoned on April 25, 2005.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The file is being forwarded to Technology Center 3600.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

GORDON THOMSON
1353 MOUNTAINSIDE CRES
OTTAWA, ON K1E3G-5 CA
CANADA

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NOV 04 2002

OFFICE OF PETITIONS

In re Application of	:	
Auguste et al.	:	
Application No. 10/193,905	:	DECISION ON
Filed: October 7, 2002	:	PETITION
For: COIN AND TOKEN ORGANIZING, HOLDING AND DISPENSING APPARATUS	:	

This is a decision on the petition filed October 7, 2002, to accord the above-identified application a filing date of July 15, 2002.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office will not consider the merits of paper/petition unless the paper is signed by all the inventors, a registered attorney or agent, or the owner of all the rights in the application. Marc Auguste, Jr. has not established he is a registered attorney/agent or the owner of all rights in the application. Therefore, the merits of the petition will not be considered.

Any request for reconsideration should be signed by all the inventors, a registered attorney or agent, or the owner of all the rights in the application.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Marc Auguste, Jr.
245 Lakeshore Drive Unit 103
Toronto, Ontario M8V 2A8
CANADA

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

Marc Auguste, Jr.
245 Lakeshore Drive Unit 103
Toronto, Ontario M8V 2A8
CANADA

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of
Auguste et al.
Application No. 10/193,905
Filed: October 7, 2002
For: COIN AND TOKEN ORGANIZING, HOLDING AND DISPENSING APPARATUS

DECISION ON PETITION

This is a decision on the renewed petition filed November 27, 2002, to accord the above-identified application a filing date of July 15, 2002.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On July 15, 2002, the application was deposited.

On August 12, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on July 15, 2002.

In support of petitioner's allegation, petitioner has supplied a statement from Marc Auguste Jr. that "drawings were submitted to the USPTO at the time of filing."

All the evidence present in the file has been carefully considered, but is not persuasive that drawings were submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that drawings were filed on July 15, 2002, the file of application No. 10/193,905[1] shows that drawings were not received, since no such drawings are present in the file. An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, the copying machine, or another reason. The best evidence of what was filed on July 15, 2002, is the application file itself. Accordingly, an applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations, as in this case, are usually made weeks or months after the actual events recited. In this case, the declaration filed on October 7, 2002 , was made more than 10 weeks after the application was received. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on July 15, 2002.

The instant petition illustrates the reason the USPTO established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

If a request of reconsideration is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 7, 2002, the date the missing parts were supplied, using the application papers filed on July 15, 2002, and the 4 sheets of drawings filed on October 7, 2002.

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

[2] See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6733619
Issue Date: May 11,2004
Application No. 10193911
Filed: July 15,2002
Attorney Docket No. 1217NOV-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6733619	2004-05-11	10/193,911	2002-07-15	1217NOV-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	/David Klein/	Date (YYYY-MM-DD)	2008-07-22
Name	David Klein	Registration Number	41118

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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ALEXANDRIA, VA 22313-1450
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BAKER & BOTTS
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112

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APR 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Hogan, et. al.	:	DECISION ON PETITION
Application No. 10/193,938	:	TO WITHDRAW
Filed: July 11, 2002	:	FROM RECORD
Attorney Docket No. 00A146.0162	:	

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 15, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Baker & Botts, LLP has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed December 16, 2005, that requires a reply from the applicant.

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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Dr. Benjamin Adler
c/o Adler & Associates
8011 Candle Lane
Houston, TX 77071

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SUSAN A. SIPOS
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Frederick Sparling et al :
Application No. 10/193,950 : NOTICE
Filed: July 10, 2002 :
Attorney Docket No. 381-39-CIP/CONII/CPA/CON

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-21-04

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/193954 Patent No.: 6777611

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should this be Approved.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

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:

(1) Column 6 line 4 delete "FIG 8a" shoud be "FIG 8e" before 3-way switch

(2) claim 5 around line 18, "held" shoud be column 9 line 18.

LSB 2/5/08

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

2831
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAR - 7 2003

Paper No. 3

In re Application of	:	
Mark E. Daniels	:	
Serial No. 10/193,974	:	DECISION ON PETITION
Filed: July 12, 2002	:	TO MAKE SPECIAL
For: ROLL MOUNTED BAGS AND	:	
DISPENSERS FOR SAME	:	

Applicant's petition, filed July 12, 2002, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross

E. Rollins-Cross, Director
Technology Center 3700

Belasco, Jacobs and Townsley LLP
100 Corporate Pointe, Suite 330
Culver City, CA 90230

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Paper No. 11

BELASCO, JACOBS & TOWNSLEY LLP
100 CORPORATE POINTE
SUITE 330
CULVER CITY CA 90230

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of	:
Mark E. Daniels	:
Application No. 10/193,974	: DECISION GRANTING PETITION
Filed: 12 July, 2002	:
Attorney Docket No. 02-020-JB	:

This is a decision on the petition, filed on 5 September, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 11 July, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213© for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A corrected Filing Receipt which sets forth the projected publication date of 15 January, 2004, accompanies this decision on petition.

This decision is being forwarded to Technology Center 3700 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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P.O. Box 1450
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BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Mark E. Daniels	:	
Application No.: 10/193,974	:	ON PETITION
Filed: July 12, 2002	:	
Attorney Docket No: 02-020-JB	:	

This is in response to the petition under 37 CFR 1.137(b) filed March 8, 2007.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed August 30, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on December 1, 2006. A Notice of Abandonment was mailed on March 29, 2007.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

As to item (1) above, Examiner Jason Prone has determined that the response filed February 27, 2007, does not place the application in condition for allowance. The petition must be dismissed because of the lack of a proper response to the final Office action. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed February 27, 2007, should be directed to Examiner Prone.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DEC 17 2004

Technology Center 2100

Sanford J. Piltch, Esq.
Suite 201
1132 hamilton Street
Allentown, PA 18101-1024

In re Application of: Kolbe
Application No. 10/193,981
Filed: July 13, 2002
For: WEB-BASED, INDUSTRY SPECIFIC, STAFFING INTERACTIVE DATABASE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed September 23, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed September 23, 2004 fails to adequately meet requirements (b) and (e) of the criteria set forth above. With respect to requirement (b), applicant has failed to make the statement that "Applicant will make an election without traverse as a prerequisite to the grant of special status if the Office determines that all the claims are not obviously directed to a single invention". With respect to requirement (e), claim 1 does not recite the distinct feature of "utilizing a calendering scheme as the basis for viewing and accepting offered temporary employment opportunities by temporary staffing personnel". Specifically, the use of a calendaring scheme is not set forth in the claim(s), as remarked. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above.

Further, on page 2 of the petition, applicant makes reference to an ongoing infringement of the claimed subject matter. Petitions to make special regarding infringement are considered in light of M.P.E.P. §708.02 (II). If applicant is seeking for the application to be made special based on infringement, then applicant needs to file a separate petition following the requirements under M.P.E.P. §708.02 (II). In any event, the paragraph referring to the ongoing infringement is not appropriate for a petition under M.P.E.P. §708.02 (VIII) and therefore needs to be removed from the instant petition.

Also, note the Examiner has already issued a non-final action. Therefore, applicant must file a "record" reply responsive to the examiner's first action. The reply at this stage, to be proper, must be restricted to the rejections, objections, and requirements made. Any amendment, which would require broadening the search field, would be treated as an improper reply. See M.P.E.P. §708.02, Section VIII (section (c) of the special examining procedures).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

12/6/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

MBS

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Paper No. 6

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Motomasa Kawai et al
Application No. 10/194,006
Filed: July 15, 2002
For: CAD SYSTEM, DESIGN-SUPPORT PROGRAM FOR CAD SYSTEM, AND DESIGN METHODS

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 7, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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ATTILIO RIMOLDI
22A GREAT OAKS BOULEVARD
SAN JOSE, CA 95119

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Motomasa Kawai; Attilio Rimoldi; Gian Paolo Bassi
Application No. 10/194,006
Filed: July 15, 2002
For: CAD SYSTEM, DESIGN-SUPPORT PROGRAM FOR CAD SYSTEM, AND DESIGN METHODS

Dear Mr. Rimoldi:

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 Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

GIAN PAOLO BASSI
22A GREAT OAKS BOULEVARD
SAN JOSE, CA 95119

COPY MAILED

MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Motomasa Kawai; Attilio Rimoldi; Gian Paolo Bassi
Application No. 10/194,006
Filed: July 15, 2002
For: CAD SYSTEM, DESIGN-SUPPORT PROGRAM FOR CAD SYSTEM, AND DESIGN METHODS

Dear Mr. Bassi:

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 Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 12 2004

Paper No. 10

In re Application of
Vladimir M. Segal *et al*
Application No. 10/194,022
Filed: July 11, 2002
Attorney Docket No. 30-5022-DIV1

DECISION ON PETITION

This is a decision on the petition filed on April 12, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated September 4, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was actually filed November 25, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of an Express Mail Label for the reply which shows that the reply was in fact deposited with the United States Postal Service as Express Mail, Post Office to Addressee, on November 25, 2003. Therefore, the reply is considered to have been received in the Office on November 25, 2003, a date within the period set for filing a reply to the Office letter in question. See 37 CFR 1.10(e). Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on November 25, 2003. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Wells St. John P.S.
601 W. First Avenue
Suite 1300
Spokane, WA 999201

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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MR. TRAVIS HONEYCUTT
REACTIVE ENERGY
4619 STEEPLECHASE
FLOWERY BRANCH GA 30542

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Travis Honeycutt et al	:	
Application No. 10/194,042	:	DECISION GRANTING PETITION
Filed: July 12, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 526.12	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of August 4, 2004, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on May 19, 2005 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1764.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20070301

DATE : 2-22-07

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/194050 Patent No.: 6816499

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 Review C of C

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

2884

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: JAN 29 2004

rvk
Paper No. 9

In re application of:	:	
Hiroshi Yorita et al.	:	
Serial No.: 10/194,055	:	DECISION ON
Filed: July 12, 2002	:	PETITION
For: MONOLITHIC CERAMIC FILTER	:	

This is a decision to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed September 22, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 9, 2003, for failure to timely file a proper response to the Office letter mailed February 14, 2003, be withdrawn. The petitioner asserts that the Office letter of February 14, 2003 was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c) II.

The evidence presented is sufficient to establish that the Office letter of February 14, 2003 was not received by the petitioner. The evidence presented includes a statement by the petitioner that the Office letter has not been received, and a statement that a search of the file jacket docket records was made and indicating that the Office letter of February 14, 2003 was not received. Also provided is a copy of the docket record covering a time period of February 12 through March 13, 2003 where the Office letter of February 14, 2003 would have been posted had it been timely received.

However, a review of the instant application file indicates that the Office letter of February 14, 2003 was mailed to the old address of the petitioner in the record, which is :

MORRISON & FOERSTER LLP
Suite 5500
2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20006-1888

The applicants have not filed a timely notification of mailing address change to the USPTO according to MPEP 601.03. It is noted that in the Transmittal Form filed January 21, 2003, the attorney provides a new address. However, the mere inclusion, in a paper filed in the instant application for another purpose ,of an address differing from the previously provided correspondence address does not constitute proper notification of a change in correspondence address. Therefore, the request cannot be granted.

Accordingly, this application stands abandoned.

The Petition is **Denied**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
McLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 14

Barry E. Bretschneider
Morrison and Foerster LLP
Suite 5500
2000 Pennsylvania Ave., N. W.
Washington, DC 20006-1888

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MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Hirsohi Yorita, et al. :
Application No. 10/194,055 : ON PETITION
Filed: July 12, 2002 :
Attorney Docket No. 35631-120001.11 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700.

Marianne E. Morgan
Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

09-25-02

OIPE JC157
SEP 24 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 01-897-B)

In re Application of:	)	
Viswanadham Garimella	)	Examiner: TBA
Serial No.: 10/194,138	)	Art Unit: 1643
Filed: July 12, 2002	)	Confirmation No. 8539
For: METHOD FOR IMMOBILIZING MOLECULES ONTO SURFACES	)	

TRANSMITTAL LETTER

U.S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

Sir:

In regard to the above identified application.

1. We are transmitting herewith the attached:

   a) Response to Notice to File Missing Parts dated July 12, 2002
   b) Copy of Notice to File Missing Parts
   c) Executed Inventor's Declaration
   d) Sequence Listing (paper copy and 3.5" readable diskette)
   e) Return Postcard

2. With respect to fees:

   a) Please charge $65.00 to Deposit Account No. 13-2490.

   b) General Authorization: Please charge any underpayment or credit any overpayment our Deposit Account, NO. 13-2490. A duplicate copy of this sheet is enclosed.

3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.10: The undersigned hereby Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service as "Express Mail Post Office to Addressee", addressed to the U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202 on this 24 day of September, 2002 under the Express Mail label No. EL738028719US.

Respectfully submitted,

Date: 9/24/02

Emily Miao
Registration No. 35,285

#4

OIPE JC151
SEP 24 2002
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 01-897-B)

In re Application of:	)	
	)	
Viswanadham Garimella	)	
	)	Examiner: TBA
Serial No.: 10/194,138	)	
	)	Art Unit: 1643
Filed: July 12, 2002	)	
	)	Confirmation No. 8539
For: METHOD FOR IMMOBILIZING MOLECULES ONTO SURFACES	)	

RESPONSE

U.S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

Dear Sir:

This is in response to the Notice to file Missing Parts dated July 12, 2002. Attached herewith please find an executed Inventors declaration, a Sequence Listing (paper copy and electronic copy on 3.5" diskette), a copy of the Notice. Please charge $65.00 (surcharge fee) to Deposit Account No. 13-2490.

Pursuant to 37 C.F.R. 1.821-825, the Applicants submit that the information contained in the paper and electronic copies of the Sequence Listing are the same. No new matter has been introduced into this application as a result of the above amendment and submission of the Sequence Listing.

Prompt consideration and entry of this response is respectfully requested.

Respectfully submitted,

Dated: 9-24-02

Emily Miao
Registration No. 35,285

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, Illinois 60606
Telephone : (312) 913-0001
Facsimile: (312) 913-

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OIPE
SEP 24 2002
PATENT & TRADEMARK OFFICE

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/194,138	07/12/2002	Viswanadham Garimella	01-897-B

CONFIRMATION NO. 8539
FORMALITIES LETTER
OC000000008569857

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Date Mailed: 08/05/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

09/26/2002 SSITHIB1 00000131 132490 10194138

01 FC:205 65.00 CH

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jonathan P. Osha
ROSENTHAL & OSHA L.L.P.
700 Louisiana, Suite 4550
Houston TX 77002

MAIL

FEB 2 8 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
ISHIHARA, KAZUHIDE, et al.
Application No. 10/194,143
Filed: July 12, 2002
For: **RECORDING APPARATUS**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed February 2, 2007. No fee is required.

Petitioner alleges non-receipt of the non-final Office action mailed November 3, 2006. In support of the petition, petitioner has provided a statement that the office communicated was not received by the petitioner.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action originally mailed on November 3, 2006. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jonathan P. Osha
ROSENTHAL & OSHA L.L.P.
700 Louisiana, Suite 4550
Houston TX 77002

MAIL

FEB 2 8 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
ISHIHARA, KAZUHIDE, et al.
Application No. 10/194,143
Filed: July 12, 2002
For: **RECORDING APPARATUS**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed February 2, 2007. No fee is required.

Petitioner alleges non-receipt of the non-final Office action mailed November 3, 2006. In support of the petition, petitioner has provided a statement that the office communicated was not received by the petitioner.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action originally mailed on November 3, 2006. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 5

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:
Adams and Taylor	: DECISION REFUSING STATUS
Application No. 10/194,144	: UNDER 37 CFR 1.47(a)
Filed: 12 July, 2002	:
Atty Docket No. 13180	:
	:

This is in response to the petition filed under 37 CFR 1.47(a) on 7 January, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 July, 2002, without an executed oath or declaration. Accordingly, on 9 August, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 7 January, 2003 (certificate of mailing 27 December, 2002), petitioners filed the present petition, along with a three (3) month extension of time and a declaration naming Matthew Thomas Adams and Douglas Adrian Taylor as joint inventors and signed by joint inventors Adams on behalf of himself and joint inventor Taylor.

Petitioners state that a letter was sent to joint inventor Taylor requesting that he sign the declaration, but that he did not return a signed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided proof that Taylor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The showing of record is that although the declaration was sent to non-signing inventor Taylor, the application papers were never sent to him. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

With regards to item (2) the declaration is defective in that it does not state the residence, mailing address, or citizenship of

---

[1] MPEP 409.03(d).

the non-signing inventor.[2] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[3] A new oath or declaration, containing the residence, mailing address, and citizenship of both inventors, signed by the signing inventor on behalf of himself and the non-signing inventor in compliance with 37 CFR 1.63 and 1.67 is required.

It is noted that petitioner submitted checks for $920.00 for the three (3) month time extension and $130.00 for the late filing surcharge. A review of Office financial records reveals, however, that these checks were returned for insufficient funds. Therefore, counsel's deposit account, No. 04-2219, will be charged these fees as authorized in the present 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 FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 605.01.

[3] 35 U.S.C. § 115, MPEP 605.01.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 05-03

Paper No. 7

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

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MAY 28 2003

OFFICE OF PETITIONS

In re Application of Adams and Taylor Application No. 10/194,144 Filed: 12 July, 2002 Atty Docket No. 13180	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 16 May, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 July, 2002, without an executed oath or declaration. Accordingly, on 9 August, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 7 January, 2003 (certificate of mailing 27 December, 2002), petitioners filed the initial petition, along with a three (3) month extension of time and a declaration naming Matthew Thomas Adams and Douglas Adrian Taylor as joint inventors and signed by joint inventors Adams on behalf of himself and joint inventor Taylor. The petition was dismissed on 11 March, 2003.

On 16 May, 2003 (certificate of mailing 12 May, 2003) the present renewed petition was filed. Petitioners state that the application papers were sent to joint inventor Taylor's last known address requesting that he sign the declaration, but that he did not return a signed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

With regards to item (2) petitioners have not yet submitted a proper declaration. The declaration is defective in that it does not state the residence, mailing address, or citizenship of the non-signing inventor.[1] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[2] A new oath or declaration, containing the residence, mailing address, and citizenship of both inventors, signed by the signing inventor on behalf of himself and the non-signing inventor in compliance with 37 CFR 1.63 and 1.67 is required.

The $130.00 petition fee submitted with the present request for reconsideration is unnecessary and will be credited to counsel's deposit account, No. 04-2219.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

---

[1] MPEP 605.01.

[2] 35 U.S.C. § 115, MPEP 605.01.

	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 related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Adams and Taylor	: DECISION ACCORDING STATUS
Application No. 10/194,144	: UNDER 37 CFR 1.47(a)
Filed: 12 July, 2002	:
Atty Docket No. 13180	:
	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 20 June, 2003.

The petition is **GRANTED**.

Petitioner has shown, via the statement of petitioners' registered patent attorney Catherine L. Gemrich, that the non-signing inventor has failed to join in the filing of the above-identified application after having been sent a copy of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

No additional petition fee was due on reconsideration. Therefore, the petition fee of $130.00 submitted with the present renewed petition will be refunded to counsel's deposit account, No. 04-2219, as authorized in the present petition.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 07-03

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JUL 0 3 2003

OFFICE OF PETITIONS

Douglas Taylor
320 Woodsdale
Monroe, OH 45050

In re Application of
Adams et al.
Application No. 10/194,144
Filed: 12 July, 2002
For: DIELECTRIC SHIELDING FOR IMPROVED RF PERFORMANCE OF RFID LABELS

Dear Mr. Taylor:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

UNITED STATES 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

ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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AUG 2 6 2004
OFFICE OF PETITIONS

In re Application of :
James Jensen et al :
Application No. 10/194,152 :
Filed: July 12, 2002 :
Attorney Docket No. 03382-P0030D :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 24, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 25, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 2132 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

92440/83162

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David Charles Reynolds

Serial No.: 10/194,177

Filing Date: July 12, 2002

Group: 2852

For: TRANSFER MEDIUM FOR TONER IMAGE AND METHOD OF USE

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AUG 30 2004

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Dear Sir:

REQUEST FOR WITHDRAWAL AS ATTORNEY PURSUANT TO 37 C.F.R. § 10.40 (c)

Monty L. Ross, on behalf of himself and the law firm of Locke Liddell & Sapp L.L.P., respectfully requests permission to withdraw from all further responsibility in this Application as counsel for Applicant and from further representation of Applicant in patent application, Serial No. 10/194,177, this Request being filed in accordance with 37 C.F.R. § 1.36.

The basis for this request for withdrawal is that the Applicant has failed to respond to a number of requests for instructions and information from the undersigned and other registered patent attorneys at Locke Liddell & Sapp L.L.P. Two letters were

DOCKETED

sent to Applicant requesting instructions regarding foreign filing of the invention disclosed in the above application. The second letter was sent certified mail and delivery was confirmed. No response or instructions were ever received from the Applicant. More recently, a letter was sent to the Applicant's last known address on January 23, 2004 by certified mail requesting that the Applicant contact the undersigned to discuss the outstanding office action and any desired response. Delivery was confirmed by the U.S. Post Office, however, the Applicant has not contacted the undersigned as requested. The letter also clearly indicated that if we had not received any response by February 13, 2004, we would file a petition to withdraw as counsel of record in the application. Without a response from Applicant, it cannot be known whether Applicant desires to continue prosecuting the current application, and if so, how the Applicant would like to proceed in distinguishing the art cited by the examiner. As a result of Applicant's failure to communicate with and respond to requests from the undersigned, it is unreasonably difficult to carry out the representation of Applicant effectively. Therefore, 37 C.F.R. § 10.40 (c)(1)(iv) provides a basis for requesting this voluntary withdrawal from representation.

In addition, there are a number of past-due bills that Applicant has failed to pay dating back to December of 2002 and March of 2003. A reminder statement mailed November 12, 2003 was returned as undeliverable with no forwarding address. This statement was mailed to the same address that previous and subsequent communications that were sent certified mail were successfully delivered. The Applicant also never responded to an email sent by the undersigned on June 5, 2003

PAGE 3/6 * RCVD AT 6/21/2004 4:47:31 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/2 * DNIS:7469195 * CSID:2147408800 * DURATION (mm-ss):01-54

explaining in great detail the contents of the outstanding bills and requesting either payment of the amounts due or an explanation of the basis for any dispute regarding the amount billed. Therefore, an alternative basis for permissive withdraw exists under 37 C.F.R. § 10.40(c)(1)(vi), because Applicant has failed to pay one or more bills for an unreasonable period of time.

The last known address of Applicant is:

Richard Laidler
Rackavon Incorporated
9409 Abbey Road
Irving, TX 75063

Respectfully submitted,

By: _____
Monty L. Ross
Registration No. 28,899

Date: February 18, 2004

LOCKE LIDDELL & SAPP LLP
2200 Ross Avenue, Suite 2200
Dallas, TX 75201-6776
(214) 740-8519
(214) 740-8800 (fax)

PAGE 4/6 * RCVD AT 6/21/2004 4:47:31 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/2 * DNIS:7469195 * CSID:2147408800 * DURATION (mm-ss):01-54

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Motorola, Inc.
Law Department
1303 East Algonquin Road
3rd Floor
Schaumburg, IL 60196

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JUN 10 2008

In re Application of	:	
Robert Edward Mack, et. al.	:	
Application No. 10/194,188	:	ON PETITION
Filed: July 12, 2002	:	
Attorney Docket No. D02659	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed on December 4, 2006.

The petition is **dismissed**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

Petitions under the unintentional provisions of 37 CFR 1.137 are required to be signed by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, the assignee, or other party in interest.

The instant petition contains an S-signature of Thomas Bethea, Jr. Since it is not clear whether the signature on the petition is from someone authorized to sign a petition under 37 CFR 1.137, the statement of unintentional delay cannot be accepted at this time.

The requirements for an S-signature under 37 CFR 1.4 (d)(2) are as follows:

> (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and
>
> (ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.
>
> (iii) The signer's name must be:
>
> > (A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and
> >
> > (B) Reasonably specific enough so that the identity of the signer can be readily recognized.

Additionally, the Revocation of Power of Attorney and Appointment of New Power of Attorney filed on December 3, 2007, was accepted by the Office on December 31, 2007. Unfortunately, it is not apparent whether the person signing the form is authorized to act on behalf of the assignee or is in a position to have an apparent authority to sign on behalf of the assignee. Thus, the Statement under 37 CFR 3.73(b) needs perfecting to contain the statement that the individual is authorized to sign on behalf of the assignee or be signed by a person having the apparent authority to sign on behalf of the assignee, such as an officer of the assignee (See 37 CFR 3.73(b)(2)). A blank 3.73(b) Statement is enclosed for petitioner's convenience.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

PTO/SB/96 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:
1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.,* a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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Mailed: APR 18 2005

Paper Number _____

In re application of :
Chad Mueller et al. : DECISION ON
Serial No.10/194,198 : PETITION
Filed: July 12, 2002 :
For: SQUEEZABLE CONTAINERS FOR FLOWABLE PRODUCTS HAVING IMPROVED BARRIER AND MECHANICAL PROPERTIES :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed September 30, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 11, 2004 for failure to timely file a proper reply to the Office letter mailed October 03, 2003 be withdrawn since the applicants did timely file a reply on October 21, 2003. (Copies of the papers filed October 21, 2003 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on October 21, 2003 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on October 21, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed October 03, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed October 21, 2003.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ohlandt, Greeley, Ruggiero & Perle LLP
One Landmark Square
Stamford, CT 06901-2682

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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DEC 22 2006
OFFICE OF PETITIONS

In re Application of Vassilovski et al. :
Application No. 10/194,208 : Decision on Petition
Filing Date: July 12, 2002 :
Attorney Docket No. 010346C1 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 22, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 11, 2006. A Notice of Abandonment was mailed on July 19, 2006.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

As to item (2) above, petitioner has not explicitly stated a search of the file jacket has been performed. Therefore, the petition cannot be granted at this time.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of Vassilovski et al. :
Application No. 10/194,208 :
Filing Date: July 12, 2002 :
Attorney Docket No. 010346C1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed April 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 11, 2006. A Notice of Abandonment was mailed on July 19, 2006.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

Technology Center Art Unit 2617 will be informed of the instant decision and the examiner will consider the merits of the papers filed September 22, 2006, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 26 2010

OFFICE OF PETITIONS

Paper No.

HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

In re Application of	:	
Romano et al.	:	
Application No. 10/194,427	:	DECISION ON PETITION
Filed: July 12, 2002	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
57057.830001.US0	:	
Title: METHOD AND SYSTEM FOR	:	
FINALIZING SPECIFIC PROCESSES	:	
THROUGH A DYNAMIC SYSTEM	:	

This is a decision on the petition filed November 6, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 15, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 16, 2009. A notice of abandonment was mailed on October 27, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the proper statement of unintentional delay. Petitioner has further indicated that a continuation application was filed.

Office records confirm that continuation application 12/614,221 was filed on November 6, 2009.

The petition fee will be charged to Deposit Account No. 08-2623, as authorized on the Request for Continued Examination, filed in this application on January 14, 2009.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application number 12/614,221.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

Ex. K. Patel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/4/07

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/194,263 Patent No.: 7062099

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: All minor errors approved

Matthew Bella
SPE

2624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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JAN 29 2003

OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

In re Application of
Adams and Taylor
Application No. 10/194,273
Filed: July 12, 2002
Attorney Docket No. 12181
For: METHOD AND APPARATUS FOR CONFIGURING THE READ RANGE OF AN RFID LABEL OR TAG

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 7, 2003.

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 Parts of Non-Provisional Application" (the "Notice") on August 9, 2002. The Notice set forth a period for reply of two months. On January 7, 2003, in response to the Notice, petitioner filed an extension of time within the third month, the instant petition, and declaration executed by inventor Adams. Petitioner also remitted the $130.00 surcharge as required by the Notice.

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), sufficient proof was not provided that the entire application papers were sent to the non-signing inventors, not just the Declaration of Inventorship. 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.

Petitioner only indicates that a copy of the Declaration of Inventorship was sent to the non-signing inventor. The non-signing inventor cannot be deemed to have refused to join the application until he has had the opportunity to review the entire application. It is, therefore, concluded that Item (1) above has not been satisfied. Petitioner must present the non-signing inventors with a complete copy of the entire application papers before any petition under 37 CFR 1.47(a) will be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, Virginia

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

Orum & Roth
53 W. Jackson Blvd.
Chicago, IL 606604

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Adams and Taylor
Application No.: 10/194,273
Filed: July 12, 2002
Attorney Docket No: 12181
For: METHOD AND APPARATUS FOR CONFIGURING THE READ RANGE OF AN RFID LABEL OR TAG

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 7, 2003 (certificate of mailing dated March 31, 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 Parts of Non-Provisional Application" (the "Notice") on August 9, 2002. The Notice set forth a period for reply of two months. On January 7, 2003, in response to the Notice, petitioner filed an extension of time within the third month, the a petition under 37 CFR 1.47(a), and declaration executed by inventor Adams. Petitioner also remitted the $130.00 surcharge as required by the Notice. The petition filed January 7, 2003, was dismissed by a decision mailed January 29, 2003. The instant renewed petition was then filed on April 7, 2003.

In response thereto, petitioner filed the instant petition through which petitioner established that the inventor Taylor has refused constructively to join the prosecution of 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.

This application will be forwarded to the Office of Patent Publications for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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Chicago, IL 606604

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Adams and Taylor
Application No.: 10/194,273
Filed: July 12, 2002
Attorney Docket No: 12181
For: METHOD AND APPARATUS FOR CONFIGURING THE READ RANGE OF AN RFID LABEL OR TAG

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 7, 2003 (certificate of mailing dated March 31, 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 Parts of Non-Provisional Application" (the "Notice") on August 9, 2002. The Notice set forth a period for reply of two months. On January 7, 2003, in response to the Notice, petitioner filed an extension of time within the third month, the a petition under 37 CFR 1.47(a), and declaration executed by inventor Adams. Petitioner also remitted the $130.00 surcharge as required by the Notice. The petition filed January 7, 2003, was dismissed by a decision mailed January 29, 2003. The instant renewed petition was then filed on April 7, 2003.

In response thereto, petitioner filed the instant petition through which petitioner established that the inventor Taylor has refused constructively to join the prosecution of 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.

This application will be forwarded to the Office of Patent Publications 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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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Adams and Taylor
Application No.: 10/194,273
Filed: July 12, 2002
Attorney Docket No: 12181
For: METHOD AND APPARATUS FOR CONFIGURING THE READ RANGE OF AN RFID LABEL OR TAG

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 7, 2003 (certificate of mailing dated March 31, 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 Parts of Non-Provisional Application" (the "Notice") on August 9, 2002. The Notice set forth a period for reply of two months. On January 7, 2003, in response to the Notice, petitioner filed an extension of time within the third month, the a petition under 37 CFR 1.47(a), and declaration executed by inventor Adams. Petitioner also remitted the $130.00 surcharge as required by the Notice. The petition filed January 7, 2003, was dismissed by a decision mailed January 29, 2003. The instant renewed petition was then filed on April 7, 2003.

In response thereto, petitioner filed the instant petition through which petitioner established that the inventor Taylor has refused constructively to join the prosecution of 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.

This application will be forwarded to the Office of Patent Publications 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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OFFICE OF THE DIRECTOR
TC 3600

John S. Hale
Gipple & Hale
6665-A Old Dominion Drive
McLean, VA 22101

Paper No. 7

In re Application of :
Fletcher Morgan :
Application No. 10/194,275 :
Filed: July 15, 2002 :
For: STATIONARY STORAGE RACK FOR POTS PANS AND LIDS

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 November 24, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated June 20, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps 1/14/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Birch, Stewart, Kolash & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

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APR 15 2003

OFFICE OF DIRECTOR
GROUP

In re Application of
Daniel M. Brown et al.
Application No. 10/194,276
Filed: July 15, 2002
For: AUTOSTEREOSCOPIC DISPLAY WITH ROTATED MICROLENS AND METHOD OF DISPLAYING MULTIDIMENSIONAL . . .

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request filed by Michael K. Mutter to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on March 11, 2003. Mr. Mutter signed on behalf of all attorneys/agents of record in this application.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will be directed to Patent Administrator, Mems Optical, Inc. at the address provided below unless otherwise notified by applicant.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Patent Administrator
Mems Optical, Inc.
205 Import Circle, Suite 2
Huntsville, AL 35806

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AUG 16 2004

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AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

John S. Hale
Gripple & Hale
6665-A Old Mominion Drive
McLean, VA 22101

In re Application of
Fletcher Morgan
Application No. 10/194,283
Filed: July 15, 2002
For: ADJUSTABLE STORAGE RACK FOR POTS, PANS AND LIDS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on June 4, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated December 31, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 8/9/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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FEB 04 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

John S. Hale
Gipple & Hale
6665-A Old Dominion Drive
McLean, VA 22101

In re Application of Fletcher Morgan Application No. 10/194,287 Filed: July 15, 2002	: : : :	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)**

The above-identified application is withdrawn from issue after payment of the issue fee **Due to unpatenatability of one or more claims. See 37 CFR 1.313(b)(3).**

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 this application.

Telephone inquiries should be directed to John J. Love, Director, Technology Center 3600 at 703 308-1020.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John J. Love, Director
Technology Center 3600
703 308-1020

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Toshitsugu Takekuma, et al.	:	
Application No. 10/194,310	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. 500.33011CC10	:	

This is a decision on the petition, filed June 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 2-27-06

CHK
Paper No. ____

In re Application of
FUKUYAMA et al.
Serial No.: 10/194,318
Filed: July 15, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: COMPOSITION FOR FORMING LOW DIELECTRIC CONSTANT INSULATING FILM, METHOD OF FORMING INSULATING FILM USING THE COMPOSITION AND ELECTRONIC PARTS HAVING THE INSULATING FILM PRODUCED THEREBY

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed November 15, 2005 to correct inventorship under 37 CFR 1.48(b) by deleting the name of Tamotsu Owada and Hiroku Inoue from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

Amy E.L. Schoenhard
ARENT FOX PLLC
1050 Conneticut Avenue NW
Washington, D.C. 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

ARNOLD & PORTER
IP DOCKETING DEPARTMENT; RM 1126(b)
555 12TH STREET, N.W.
WASHINGTON, DC 20004-1206

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NOV 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Abir	:	
Application No. 10/194,322	:	DECISION GRANTING
Filed: July 15, 2002	:	PETITION
Attorney Docket No. 16827.031	:	

This is a decision on the petition filed October 2, 2002, to accord the above-identified application a filing date of July 15, 2002.

On July 15, 2002, the application was filed.

On August 20, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that Figure 1 was deposited on July 15, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "1 page of drawings" on July 15, 2002.[1] Petitioner has also submitted a copy of the missing documentation-page 1 of the drawings consisting of Figure 1.

Upon review of the record, Figure 1, deposited on July 15, 2002, has not been located. However, the evidence is convincing that the application papers deposited on July 15, 2002, included Figure 1, and that Figure 1 was subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of July 15, 2002.

In view of the above, the petition is **granted**. The copy of Figure 1 submitted with the petition will be used for examination purposes.

The $130 petition fee will be credited to petitioner's deposit account.

The Notice mailed August 20, 2002, is hereby vacated to the extent the Notice stated drawings were omitted and that a filing date had not been accorded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 15, 2002, using the application papers filed on July 15, 2002, and the copy of Figure 1 filed on October 2, 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
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

SHERMAN D PERNIA, ESQ., PC
1110 NASA ROAD ONE
SUITE 450
HOUSTON, TX 77058-3310

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Spartiotis	:	
Application No. 10/194,336	:	DECISION GRANTING
Filed: July 11, 2002	:	PETITION
Attorney Docket No. AJAT-198	:	

This is a decision on the petition filed October 7, 2002, to establish that Figure 2 was part of the originally filed application.

On July 11, 2002, the application was filed.

On September 10, 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 July 11, 2002, and advising applicants that Figure 2 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 2 was deposited on July 11, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 6 sheets of drawings with the original application.[1] Petitioner has also submitted a copy of the missing documentation- Figure 2.

Upon review of the record, Figure 2, deposited on July 11, 2002, has not been located. However, the evidence is convincing that the application papers deposited on July 11, 2002, included six sheets of drawings including Figure 2, and that Figure 2 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 2 submitted with the petition will be used for examination purposes.

A refund of the petition fee of $130 will be scheduled.

The Notice mailed September 10, 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 July 11, 2002, using the application papers filed on July 11, 2002, and the copy of Figure 2 filed on October 7, 2002.

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[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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND
AIR MAIL

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JAN 04 2007

OFFICE OF PETITIONS

In re Application of
Konstantinos E. Spartiotis
Application No. 10/194,336
Filed: 07/11/2002
Attorney Docket No. PUS-A003-198

DECISION ON PETITION

This is a decision on the petition filed May 3, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On February 27, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 5, 2004.

Petitioners asserted that they submitted a timely reply to the nonfinal Office action in the form of an amendment via facsimile transmission on May 27, 2004. With the present petition, petitioners submitted a copy of the facsimile cover sheet, bearing a certificate of mailing dated May 27, 2004, and a copy of the Office's Auto-Reply Facsimile Transmission of May 27, 2004. The Office notes that the original reply was not located in the file.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy requirement (2). Applicants did not submit an additional copy of the previously transmitted amendment in response to the nonfinal Office action. Accordingly, the petition is **dismissed**. The application will remain in its abandoned status pending the filing of a renewed petition under 37 CFR 1.181.

A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181." No additional fee is due for filing a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ST. GALLEN CH-90-00 CH SWITZERLAND
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OFFICE OF PETITIONS

In re Application of	:	
Konstantinos E. Spartiotis	:	
Application No. 10/194,336	:	DECISION ON PETITION
Filed: 07/11/2002	:	
Attorney Docket No. PUS-A003-198	:	

This is a decision on the petition filed May 3, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On February 27, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 5, 2004.

Petitioners asserted that they submitted a timely reply to the nonfinal Office action in the form of an amendment via facsimile transmission on May 27, 2004. With the present petition, petitioners submitted a copy of the facsimile cover sheet, bearing a certificate of mailing dated May 27, 2004, and a copy of the Office's Auto-Reply Facsimile Transmission of May 27, 2004. The Office notes that the original reply was not located in the file.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy requirement (2). Applicants did not submit an additional copy of the previously transmitted amendment in response to the nonfinal Office action. Accordingly, the petition is **dismissed**. The application will remain in its abandoned status pending the filing of a renewed petition under 37 CFR 1.181.

A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181." No additional fee is due for filing a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ST. GALLEN CH-90-00 CH SWITZERLAND
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FEB 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Konstantinos E. Spartiotis :
Application No. 10/194,336 : DECISION ON PETITION
Filed: 07/11/2002 :
Attorney Docket No. PUS-A003-198 :

This is a decision on the renewed petition under 37 CFR 1.181, filed January 19, 2007, to withdraw the holding of abandonment in the above-identified application.

On February 27, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 5, 2004.

Petitioners asserted that they submitted a timely reply to the nonfinal Office action in the form of an amendment via facsimile transmission on May 27, 2004. Petitioners submitted a copy of the facsimile cover sheet, bearing a certificate of mailing dated May 27, 2004, a copy of the Office's Auto-Reply Facsimile Transmission of May 27, 2004, and a copy of the previously transmitted amendment in response to the nonfinal Office action. The certificate of facsimile of May 27, 2004, would have rendered the reply timely filed if received in the USPTO; however, the original reply was not located in the file.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of February 27, 2004, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply submitted with the petition on January 19, 2007, in place of the reply transmitted on February 27, 2004.

This application is being referred to Technology Center AU 2883 for appropriate action on the amendment submitted on January 19, 2007 (certificate of facsimile dated February 27, 2004).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

In re Application of :
Horwitz : DECISION ON APPLICATION
Application No. 10/194,344 : FOR PATENT TERM ADJUSTMENT
Filed: July 11, 2002 :
Atty. Dkt. No.: 067797-5005-US02 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 28, 2007. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed May 29, 2007, indicated a patent term adjustment (PTA) to date of 84 days. The instant application for PTA was timely filed August 28, 2007, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is 84 days, as indicated on the Determination of Patent Term Adjustment mailed May 29, 2007.

Applicant disputes the reduction of 23 days in connection with the information disclosure statement (IDS) filed March 20, 2003. Applicant argues that the IDS was submitted prior to the mailing of the first Office action on the merits, and, thus, the IDS was timely submitted within the meaning of 37 CFR 1.97(b)(3).

Applicant's arguments have been carefully considered, but are not found convincing.

The IDS is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(8). The reduction began February 26, 2003, the day after the date that the response to election/restriction requirement was filed, and ended March 20, 2003, the date the IDS was filed.

The IDS filed March 20, 2003 does not contain a statement that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement," in accordance

with 37 CFR 1.704(d). Accordingly, the submission of the IDS is deemed a failure to engage in reasonable efforts to conclude prosecution.

As to applicant's argument that the first Office action on the merits was not mailed until May 20, 2003, applicant is reminded that the restriction requirement mailed January 28, 2003 was an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, the restriction requirement was a notification under 35 U.S.C. 132. See, generally, MPEP 2731

Submission of an IDS that did not contain the requisite statement set forth at 37 CFR 1.704(d) supplemental to the reply to the restriction requirement is a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the reduction of 23 days will not be withdrawn.

As applicants have not disputed any of the remaining adjustments or reductions of patent term adjustment, at the time of allowance, the application is entitled to a PTA of 84 days, as indicated on the Determination of Patent Term Adjustment mailed May 29, 2007.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Any request for reconsideration of the instant decision must be submitted within TWO (2) MONTHS of the mail date set forth herein. Extensions of time under 37 CFR 1.136 are not available.

Applicant's deposit account has been charged the required patent term adjustment application fee of $200.00, as authorized.

This application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

PATENT
Attorney Docket No. 067797-5005-US02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 7829
David A. Horwitz	Examiner: BELYAVSKYI, MICHAIL A.
Application No.: 10/194,344	Technology Center/Art Unit: 1644
Filed: July 11, 2002	CERTIFICATE OF ELECTRONIC TRANSMISSION UNDER 37 C.F.R. 1.6(a)(4) I hereby certify that this correspondence, including listed enclosures, is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office on:
For: USE OF CYTOKINES AND MITOGENS TO INHIBIT GRAFT VERSUS HOST DISEASE	Dated: August 28, 2007
Customer No.: 67374	Signed: Victoria Linne Poulsen

NOTIFICATION TO COMMISSIONER OF LOSS OF SMALL ENTITY STATUS PURSUANT TO 1.27(g)(2)

Box **ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby notice the Commissioner of their loss of small entity status for the above-captioned pending application, as required under the provisions of 37 C.F.R. §1.27(g)(2), and therefore, are subject to large entity fees for the remaining pendency of this application.

While no additional fee is believed to be due, if this belief is in error the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment to Deposit Account No. 50-0310 (Our Order No. 067797-5005-US02).

Dated: August 28, 2007

Respectfully submitted,

Customer Number: 67374
Morgan Lewis & Bockius, LLP
One Market Street, Spear Street Tower
San Francisco, CA 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001

Richard F. Trecartin, Reg. No. 31,801

1-SF/7593294.1

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ALEXANDRIA, VA 22313-1450
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Randolph Ted Apple
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re application of:
Garth J.S. Cooper
Application No. 10/194,374
Filed: July 12, 2002
For: POPULATION OF DAIRY COWS PRODUCING MILK WITH DESIRABLE CHARACTERISTICS AND METHODS OF MAKING AND USING THE SAME

Paper No. 8

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on September 22, 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 attorney making the request does not now have, and apparently never has had, power of attorney in this application.

There is no record of power of attorney ever being given to the attorney making the request. The original declaration does not include a power of attorney for the requesting attorney, and no separate paper conferring power of attorney to the attorney making the request was filed.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 11/10/03

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Christopher John Hill	: DECISION ON REQUEST FOR
Patent Number	: 7644333	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/194,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **298** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 28, 2007

TO SPE OF : ART UNIT 2618 Matthew D. Anderson

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/194,378 Patent No.: 7228163 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK to Enter

Matthew D. Anderson
Supervisory Patent Examiner
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STEPHEN A GRATTON
THE LAW OFFICE OF STEVE GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD CO 80228

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Trung Tri Doan et al.	:	
Application No. 10/194,379	:	ON PETITION
Filed: July 12, 2002	:	
Attorney Docket No.: 92-310.5	:	

This is a decision on the petition filed April 12, 2004 to correct the filing date, which is treated as petition under 37 CFR 1.53.

A "Notice to File Missing Parts of Nonprovisional Application" was mailed August 23, 2002, indicating that the application had been accorded a filing date of July 12, 2002 but that amongst other things, Figures 1A-1G, 6,7 and 8 appeared to have been omitted.

On October 15, 2002, in response to the "Notice", the applicant submitted a preliminary amendment which included the specification from prior application 09/536,931 which petitioner claims was incorporated by reference into the instant application upon filing.

Petitioner neither admits nor denies whether Figures 1A-1G, 6, 7 and 8 were omitted from the original filing but renews the argument made on October 15, 2002, that the application as filed, included a statement incorporating by reference the prior application. Petitioner asserts that the instant application is a continuation of parent application no. 09/536,931 filed March 27, 2000 (now Patent No. 6,420,249 issued July 16, 2002), which included the drawings of Figures 1A-1G, 6, 7 and 8, and that the instant application contained a statement incorporating the parent application, including Figures 1A-1G, 6, 7 and 8, by reference.

MPEP 201.06 (c) states that:

> For the incorporation by reference 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 transmittal letter-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application.

It appears that the filing date was adjusted based on the filing of the preliminary amendment on October 15, 2002.

Obviously, in view of the incorporation by reference of the prior application, the drawings of Figures 1A-1G, 6, 7 and 8 are not new matter if it was a part of the disclosure of the prior application. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is **Dismissed**.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination to correct the filing date to July 12, 2002, with an indication in Office records that Figures 1A-1G, 6, 7 and 8, while not included with the application papers upon filing, was a part of the original disclosure and for mailing of a corrected filing receipt. The application file should then be 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 (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

~~October 1, 2008~~
May 28, 2009

Anthony Miologos
Honeywell International Inc.
P. O. Box 2245
Morristown, NJ 07962

Patent No: 7,415,503 B2
Application No.: 10/194,380
Applicant: Alexander Chernoguzov, et al.
Issued: August 19, 2008
Title: **CONTROL INTERFACE AGENT SYSTEM AND METHOD**

Request for Certificate of Correction:

Consideration had been given to 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 on column 7, line 5, is a change made in an Examiner's Amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate.

In view of the foregoing, your request in this matter is hereby **denied.**

Correspondence concerning this matter should be filed and directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 756-1591

vt

Copy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

MAIL

FEB 03 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

In re Application of :
Jay Donald Wiseman :
Application No. 10/194,389 :
Filed: July 12, 2002 :
For: TRAFFIC CONTROL SYSTEM :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 6, 2003 and also on the request to withdraw as attorney/agent of record filed on November 21, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Regarding the petition filed on May 6, 2003, Petitioner has satisfied the requirements for successfully requesting withdrawal of themselves as well as attorneys associated with customer number 26986. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below listed address which has been provided by the withdrawing attorney(s).

Regarding the petition received November 21, 2003, Petitioner is no longer the attorney of record in the application. Accordingly, *the request is **denied.*** Future correspondence will continue to be sent to the below listed until such time as the applicant properly notifies the U.S. Patent and Trademark Office of an change of address .

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: Randall B. Bateman
P.O. Box 1319
Salt Lake City, UT 84110-1319

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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OFFICE OF PETITIONS

In re Application of
Goddard, et al.
Application No. 10/194,395
Filed: July 11, 2002
Atty. Dkt. No.: P3430R1C294

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed November 7, 2007. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 290 days, as indicated on the Determination of Patent Term Adjustment mailed September 6, 2007, to an adjustment of 293 days.

Applicants argue that the reduction of 95 days in connection with the response to non-final Office action, filed September 30, 2005 via USPS Express Mail in accordance with 37 CFR 1.10, is in error, and that the correct reduction is 92 days.

The correct PTA at the time of the allowance is 293 days, as argued by applicants.

Applicants do not contest the adjustment of 567 days under 37 CFR 1.702(a)(1).

Applicants contest the 95 day reduction under 37 CFR 1.704(b) in connection with the response to the non-final Office action mailed March 31, 2005. A reply to the non-final Office action was received in the Office on October 3, 2005. Applicants, however, have established that the response to the non-final Office action was actually deposited into USPS Express Mail service in accordance with the provisions of 37 CFR 1.10 on September 30, 2005. Accordingly, the response will be considered filed with the USPTO on the date of deposit with the USPS, or, September 30, 2005, as argued by applicants.

Applicants have not disputed the remaining reductions for applicants' delays. Nevertheless, the entire calculation of adjustment has been carefully reviewed, and no further errors were detected.

In review thereof, at the time of allowance, the application is entitled to an adjustment of 293 days, as argued by applicants.

The required PTA application fee of $200.00 has been charged to applicant's deposit account as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 12/27/2007

PALM INTRANET

Time: 13:17:26

PTA Calculations for Application: 10/194395			
Application Filing Date:	07/11/2002	PTO Delay (PTO):	567
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	277
Post-Issue Petitions:	0	Total PTA (days):	293
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
69	09/06/2007	MAIL NOTICE OF ALLOWANCE			
68	09/06/2007	MAIL EXAMINER'S AMENDMENT			
67	09/04/2007	ISSUE REVISION COMPLETED			
66	09/04/2007	DOCUMENT VERIFICATION			
65	09/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	09/04/2007	EXAMINER'S AMENDMENT COMMUNICATION			
63	09/04/2007	NOTICE OF ALLOWABILITY			
62	07/16/2007	DATE FORWARDED TO EXAMINER			
61	07/11/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
60	07/16/2007	DATE FORWARDED TO EXAMINER			
59	07/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		90	38
58	07/16/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
57	07/16/2007	DATE FORWARDED TO EXAMINER			
56	06/29/2007	AMENDMENT AFTER FINAL REJECTION			
55	06/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	01/14/2003	REFERENCE CAPTURE ON IDS			
53	01/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	07/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	01/14/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

43	01/14/2003	FILED			
42	05/04/2007	MAIL ADVISORY ACTION (PTOL - 303)			
41	05/01/2007	ADVISORY ACTION (PTOL-303)			
40	04/13/2007	DATE FORWARDED TO EXAMINER			
39	04/12/2007	AMENDMENT AFTER FINAL REJECTION			
38	01/12/2007	MAIL FINAL REJECTION (PTOL - 326)			
37	01/06/2007	FINAL REJECTION			
36	11/03/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
35	11/29/2006	DATE FORWARDED TO EXAMINER			
34	11/03/2006	RESPONSE AFTER NON-FINAL ACTION			
33	08/23/2006	MAIL NON-FINAL REJECTION			
32	08/15/2006	NON-FINAL REJECTION			
31	06/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30.7	06/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	06/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	06/23/2006	DATE FORWARDED TO EXAMINER			
28	06/16/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	06/23/2006	DATE FORWARDED TO EXAMINER			
26	06/16/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	23
25	06/23/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
24	06/16/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	12/16/2005	MAIL FINAL REJECTION (PTOL - 326)			
22	12/08/2005	FINAL REJECTION			
21	10/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	10/12/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	10/03/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
18.7	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	16
18	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

17	10/12/2005	DATE FORWARDED TO EXAMINER			
16	10/03/2005	RESPONSE AFTER NON-FINAL ACTION		95	14
15	10/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	03/31/2005	MAIL NON-FINAL REJECTION	567		-1
13	03/29/2005	NON-FINAL REJECTION			
12	02/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	01/28/2005	CORRESPONDENCE ADDRESS CHANGE			
10	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	07/31/2004	CORRESPONDENCE ADDRESS CHANGE			
8	08/02/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
7	10/25/2002	APPLICATION DISPATCHED FROM OIPE			
6	10/24/2002	APPLICATION IS NOW COMPLETE			
5	09/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	09/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	08/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	07/11/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/11/2002	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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Ruixiang LI
Audrey GODDARD, et al.	)	Art Unit: 1646
Application Serial No. 10/194,395	)	Attorney's Docket No. 39780-3430 R1C294
Filed: July 11, 2002	)	**Customer No. 35489**
For: **PRO6493 ANTIBODIES**	)	

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

MAIL STOP: OFFICE OF PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

The *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* form, that accompanied the Notice of Allowance for United States Patent Application Serial No. 10/194,395 states that the PTA is "**290**" days Applicants believe that the correct PTA to be accorded to the above-referenced patent is **293** days. Applicants hereby notify the United States Patent and Trademark Office that the PTA cited on the *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* is believed to be in error, and request that the PTA accorded to the above-referenced patent be **293** days.

REMARKS

Patent Term Adjustment

The total Patent Term Adjustment was noted as 290 days on the *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* form that accompanied the Notice of Allowance for United States Patent Application Serial No. 10/194,395.

In reviewing the Patent Term Adjustment History as published in the PAIR system of the U.S. Patent and Trademark Office (USPTO), Applicants note that Applicants mailed a Response after Non-Final Action on September 30, 2005 using the United States Postal Service (USPS) "Express Mail Post office to Addresses" service under 37 C.F.R. §1.10. The Certificate of Express Mail was received and date-stamped by the USPS with a date of September 30, 2005. However, the PTA History available via the PAIR system incorrectly lists the date of receipt of the RCE as October 3, 2005.

Due to the error in recording the date of receipt of the response, the USPTO incorrectly shows an applicant delay of "277" days (6/30/2005 to 10/03/2005) instead of the correct applicant delay of "274" days (6/30/2005 to 9/30/2005).

Thus, the USPTO calculation of Applicant Delay is in error by 3 days: the correct total Applicant Delay is actually 274 days.

The total USPTO delay is 567 days.

Thus, the total Patent Term Adjustment is 293 days in favor of Applicants.

Thus, Applicants request that the USPTO recalculate the Patent Term Adjustment in view of the above remarks, and accord Applicants 293 days of Patent Term Adjustment.

CONCLUSION

Applicants request that Patent Term Adjustment for U.S. Patent Application Serial No. 10/194,395 be corrected to be **293 days** instead of the 290 days indicated in *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* form.

Applicants hereby authorize payment from Deposit Account No. **08-1641** (referencing Attorney's Docket No. **39780-3430 R1C294**) for the PTA adjustment request as set forth in 37 C.F.R. § 1.18(e). However, Applicants do not believe the $200.00 charge for reconsideration of the PTA should be charged to the Applicants, as Applicants believe that an error was made on the part of the USPTO. Please deposit any refund, or, if applicable, charge any additional fees that may be due in connection with this application, to the afore-mentioned Deposit Account. Should there be any questions, please contact the undersigned at the correspondence address listed below.

Respectfully submitted,

Date: November 7, 2007

By: _____
Panpan Gao (Reg. No. 43,626)

HELLER EHRMAN LLP
275 Middlefield Road
Menlo Park, California 94025
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

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PTO/SB/21 (6-99)
Approved for use through 09/30/2000. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/194,395
Filing Date	July 11, 2002
First Named Inventor	Kevin P. BAKER, et al.
Group/Art Unit	1646
Examiner Name	Li, Ruixiang
Attorney Docket Number	39780-3430R1C294

Total Number of Pages in This Submission

ENCLOSURES *(check all that apply)*

- ☒ **Fee Transmittal Form**
  - ☐ Fee Attached
- ☒ **Amendment/Response**
  - ☐ After Final
  - ☐ Version With Markings Showing Changes
  - ☐ Affidavits/declaration(s)
- ☒ **Extension of Time Request (3 Months)**
- ☒ **Information Disclosure Statement with Form PTO-1449**
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response To Missing Parts Under 37 CFR 1.52 Or 1.53
  - ☐ Copy Of Notice
- ☒ **Declarations of Drs. Polakis and Smith**
- ☒ **Orntoft Article**
- ☐ Assignment
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ Small Entity Status
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☒ **Return Receipt Postcard**

Remarks

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual name	HELLER EHRMAN LLP	STEVEN P. LENDARIS, REG. NO. 53,202	
	275 Middlefield Road, Menlo Park, California 94025	Telephone: (650) 324-7000	Facsimile: (650) 324-0638
Signature			
Date	September 30, 2005	Customer Number:	35489

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Express Mail Label No.: EL 976 550 577 US

Typed or printed name	Sylvia Rogers		
Signature		Date	September 30, 2005

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

SV 2157148 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of
Swanson et al.
Application No.10/194,401
Filed: July 12, 2002
Attorney Docket Number: 279.426US1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed February 20, 2003, certificate of mailing date February 13, 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 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 July 12, 2002, without a completely executed oath or declaration.

Accordingly, on August 13, 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 February 20, 2003, applicant submitted a $130.00 surcharge for late filing oath or declaration fee, and a affidavit from Patricia Rutz.. To make timely, a four 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 Taylor. The affidavit indicates application papers were sent to inventor Taylor's last known address on two separate occasions. Both times the packages were returned. The Federal Express package was returned because the "recipient moved". There is no indication rule 47 applicant took any steps to locate inventor Taylor once it was determined he no longer resided at the address on record at Cardiac Pacemakers, Inc. Diligent effort requires that rule 47 applicant attempt to locate inventor Taylor so that the application papers (including specification, claims and drawings) can be

presented for his review and signature. See MPEP 409.03(d). Rule 47 applicant has failed to provide evidence of diligent effort. To establish diligent effort applicant may wish to conduct an Internet search, look in a local phone book for an appropriate listing, and/or contact co-inventors to see if inventor Taylor left a forwarding address.

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 Taylor 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). Rule 47 applicant will also need to submit an address of inventor Taylor via a substitute oath or declaration or an application data sheet. See 37 CFR 1.67.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of
Lawrence Swanson, Jeffrey Von Arx, Ron Balczewski , Jeff Taylor and Greg Carpenter
Application No. 10/194,401
Filed: July 12, 2002
Attorney Docket Number: 279.426US1
Title of Invention: FERRITE CORE TELEMETRY COIL FOR IMPLANTABLE MEDICAL DEVICE

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 18, 2003.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Molecular Imprints, Inc.
Legal Department
P.O. Box 81536
Austin, TX 78708

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OFFICE OF PETITIONS

In re Application of :
Sidlgata V. Sreenivansan, et al. :
Application No. 10/194,410 : ON PETITION
Filed: July 11, 2002 :
Attorney Docket No. P35-09-02 :

This is a decision on the petition, filed February 2, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1765 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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OFFICE OF PETITIONS

In re Application of	:	
Hosokawa	:	
Application No. 10/194,412	:	DECISION GRANTING PETITION
Filed: July 12, 2002	:	
Attorney Docket No. 116-021288	:	

This is a decision on the petition under 37 CFR 1.182, filed May 21, 2004, requesting withdrawal of an inadvertent claim for priority to Japanese Application No. 2000-349222.

The application was filed on July 12, 2002. The declaration filed on October 15, 2002 included a priority claim under 35 USC 119 to Japanese Patent Application No. 2001-213697. This claim for benefit was timely Petitioner did **not** timely claim benefit of Japanese Application No. 2000-349222. See 37 CFR 1.55(a)(1)(I).

On April 15, 2004, petitioner filed a claim for priority to Japanese Application Nos. 2000-349222 and 2001-349222 with certified copies attached.

The present petition was filed because the claim for priority to Japanese Application No. 2000-349222 found in the April 15, 2004 submission was a clerical error. Petitioner requests that the Office permit the withdrawal of the incorrect claim for priority to Japanese Patent Application No. 2000-349222 and that the record so indicate its withdrawal.

The petition is **GRANTED**.

The electronic file wrapper for this application has been annotated to reflect the withdrawal of benefit claim to Japanese Patent Application No. 2000-349222.

It is noted that the claim for priority to Japanese Application No. 2001-213697 still stands and that petitioner has provided the required certified copy of that application. 37 CFR 1.55(a)(2).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APR 07 2005

OFFICE OF PETITIONS

In re Application of Joseph A. Zupanick Application No. 10/194,422 Filed: July 12, 2002 Attorney Docket No. 067083.0189	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed April 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 March 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3672 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
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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OFFICE OF PETITIONS

In re Application of	:
Baker et al.	: DECISION ON PETITION
Application No. 10/194,423	: UNDER 37 CFR 1.137(b)
Filed: July 12, 2002	:
Attorney Docket No. P3430R1C308	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed March 31, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on July 1, 2005. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

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. With the present petition, petitioner filed a request for an extension of time for response within the third month and a $1,020.00 fee, subsequent to the maximum period obtainable for reply. Accordingly, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 1646.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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MARK DALLARA
603 SOUTH NEWPORT AVE #4
TAMPA FL 33606

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Mark Dallara, John Pazienza, Bennie :
Gladdish, and Alfred Concemi :
Application No. 10/194,426 :
Filed: July 12, 2002 :
Title: UNIVERSAL LENGTH SIZING AND
DOCK FOR MODULAR BIFURCATED
ENDOVASCULAR GRAFT

LETTER

Dear Mr. Dallara:

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

Richard C. Salfelder
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310)824-5555

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

FULWIDER PATTON LEE & UTECHT LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of Dallara, et al. Application No. 10/194,426 Filed: July 12, 2002 Attorney Docket No. ENDOV-56259	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 17, 2003, and supplemented on March 17, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 12, 2002. On August 14, 2002, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a three month extension of time and included a Certificate of Mailing dated January 10, 2003. Accompanying the petition was a declaration executed by joint inventors John Pazienza, Bennie Gladdish, and Alfred Concemi, but lacking a signature from joint inventor Mark Dallara.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, attorney Richard C. Salfelder has supplied, *inter alia*, a copy of a cover letter to the last known address of Dallara, dated April 23, 2002, transmitting the application papers, and another copy of a cover letter to Dallara, dated September 3, 2002, transmitting the declaration and power of attorney and assignment documents. According to Salfelder, no executed declaration from Salfelder has been received.

The petitions filed January 17 and March 17, 2003, have been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed January 17, 2003 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

However, it is noted that the declaration executed by Bennie Gladdish contains an alteration to his name, and bears a signature different than that of the name as typewritten.[1] The Manual of Patent Examining Procedure states that the typewritten name will be used. Accordingly, the above-identified application will issue with the name as typewritten. If applicant desires to have the application issue with the name as signed, a request to change the name of the inventor must be accompanied by a petition under 37 CFR 1.182 (with fee).[2]

Moreover, it is assumed that the signature and the typewritten name of Gladdish refer to the same person. Applicant must inform the Office if this is not correct.

The petition fee of $130 has been charged to Deposit Account No. 06-2425, as authorized.

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 3700, Group Art Unit 3731, 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

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[1] The name as typewritten on the declaration is "Bennie Gladdish". However, the name as altered and signed on the declaration is "Bennie W. Gladdish, Jr."

[2] See MPEP 605.04(b).

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FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

In re Application of :
Dallara, et al. : DECISION ON PETITION
Application No. 10/194,426 :
Filed: July 12, 2002 :
Docket No.: ENDOV-56259 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 14, 2005 for failure to timely submit a proper reply to the Notice of Allowability (Notice) mailed May 13, 2005. The Notice set a three-month statutory period for reply. Notice of Abandonment was mailed January 25, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Form PTO-948 (Rev. 06/03)
Application No. 10/194426

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 02/06/2006 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. _____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)_____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)_____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)_____

___ Poor quality (half-tone). Fig(s)_____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)_____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)_____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)_____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)_____

_____Top (T) _____ Left (L)

_____Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)_____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)_____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)_____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)_____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)_____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) _____

___ Solid black shading not permitted. Fig(s)_____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)_____

___ Figure legends are poor. Fig(s)_____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)_____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)_____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)_____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)_____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)_____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)_____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)_____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)_____

COMMENTS:

Reviewer SON LAM

Date 08/22/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. _____

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STRADLING YOCCA CARLSON & RAUTH
IP Department
660 Newport Center Drive, Suite 1600
P.O. Box 7680
Newport Beach CA 92660-6441

In re Application of
Michael Rogerson
Application No. 10/194,429
Filed: July 11, 2002
For: **MODULAR ENTERTAINMENT SYSTEM CONFIGURED FOR MULTIPLE BROADBAND CONTENT DELIVERY INCORPORATING A DISTRIBUTED SERVER**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on April 21, 2005.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents 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.

Ken A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

Michael Rogerson
C/O Rogerson aircraft Corporation
2201 Alton Parkway
Irvine California 92606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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Director's Office
Group 3700

In re Application of	:	
ZABKA ET AL.	:	
Serial No.10/194,438	:	Decision on
Filed July 12, 2002	:	Petition
For: Protective Shipper	:	

A Notice of Abandonment for the above-identified application was mailed October 18, 2004. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on October 25, 2004. In the petition applicant provides a copy of the Amendment filed December 1, 2003 in response to a letter of Non-Compliant Amendment and a copy of the post card receipt dated December 4, 2003 by the USPTO. The response due date for the letter of Non-Compliant Amendment was December 1, 2003 since the required due date, November 30, 2003, fell on a Saturday.

In view of the above, the Notice of Abandonment mailed October 18, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

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OFFICE OF PETITIONS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Patent No. 7,449,549	: DECISION ON APPLICATION FOR
Issued: November 11, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/194,485	:
Filed: July 11, 2002	:
Dkt. No.: GNE-3430R1C297	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R § 1.705(b)", filed January 12, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into US Patent No. 7,449,549 on November 11, 2008. The patent issued with an adjustment of 330 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 330 days to 645 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.702(b), of 315 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 594 days do not overlap as these periods do not occur on the same day. The 315-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on July 11, 2002 and a request for continued examination having been filed on May 22, 2006. Patentees assert

that in addition to this 315-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 594 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.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 909 days (the sum of the period of three year delay (315 days) and the period of examination delay (594 days), reduced by zero days of overlap). As such, patentees assert entitlement to a patent term adjustment of 645 days (315 days *plus* 594 days *less* zero days of overlap *less* 264 days of applicant delay).

The Office agrees that as of the time of submission of the request for continued examination on May 22, 2006, the application was pending three years and 315 days. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 594 days is correct. At issue is whether patentees should accrue an additional 315 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 594 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 315 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back

to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, July 11, 2002, to the date that the request for continued examination was filed on May 22, 2006. Prior to the issuance of the patent, 594 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

At the time of submission of the request for continued examination on May 22, 2006, the application had been pending three years and 315 days. However, the Office did not delay 315 days and then delay an additional 594 days. Accordingly, 594 days of patent term adjustment (not 594 days and 315 days) was properly entered because the entire period of delay of 315 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 594 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

An application fee of $200.00 is required for review of any application for patent term adjustment. Accordingly, the required patent term adjustment application fee of $200.00 has been charged to patentees' deposit account, as authorized.

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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DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

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In re Application of	:	
Rodney K. Tweten, et. al.	:	
Application No. 10/194,489	:	ON PETITION
Filed: July 10, 2002	:	
Attorney Docket No. 5864.020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by on September 1, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed May 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-15-09 Paper No.: _____

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/944489 Patent No.: 7179888

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be approved

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: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

SPE

1645
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In re Application of :
Qun Sun
Application No. 10/194491 : ON PETITION
Filed: July 12, 2002 :
Attorney Docket No. FLO195USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed 2/3/2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/050194.

Telephone inquiries concerning this decision should be directed to Gene Kim at (571)272-6052.

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 3 month extension of time submitted with the petition on 2/3/2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Heller Ehrman LLP
4350 La Jolla Village Drive #700, 7th Floor
San Diego, CA 92122

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OFFICE OF PETITIONS

In re Application of
Derek J. Nelson, et. al
Application No. 10/194,520
Filed: July 10, 2002
Attorney Docket No. 78494DIV1 (36-28USUSDIV)

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney Heller Ehrman LLP has been revoked by the assignee of the patent application on June 21, 2006. Accordingly, the request to withdraw under 37 CFR 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 inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/144525 Patent No. 6837182

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Drawings

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: Changes to drawings approved.

PETER M. POON
SUPERVISORY PATENT EXAMINER

SPE

3643
Art Unit

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JJGJR.: 06-05

Paper No: __

ATTN: WILLIAM M. HANLON, JR.
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084-3107

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JUN 17 2005
OFFICE OF PETITIONS

In re Application of		
Steinhauser	:	
Application No. 10/194,537	:	DECISION
Filing Date: 12 July, 2002	:	
Attorney Docket No. SHP-107-C	:	

This is a decision on the petition filed on 23 September, 2004, alleging unavoidable delay under 37 C.F.R. §1.137(a), and, in light of the allegations considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 3 February, 2004, with reply due under a non-extendable deadline on or before 3 May, 2004;

- the application went abandoned after midnight 3 May, 2004;

- however, on 18 February, 2004, the Notice of Allowance was returned by the US Postal Service to the Office as undelivered, although the Notice carried the then-current and present address of Petitioner;
- on 21 June, 2004, Petitioner filed a Status Inquiry as to the instant application;
- on 23 September, 2004, Petitioner filed the instant petition (with fee) and a supporting declaration indicating that he had monitored his docket in the instant case and had received no reply from the Office to his most recently filed amendment of 9 January, 2004;
- in addition, on 23 September, 2004, Petitioner paid the Issue Fee and Publication Fee, which was the reply to the Notice of Allowance and Fees Due.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

The Office record demonstrates that the Notice of Allowance was returned in the mail and could not have been received by Petitioner, and Petitioner further attests to the fact and evidences diligence in attending to the matter. Petitioner, further, has provided the required reply.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, and the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**, and the petition fee ($55.00) is waived and is refunded via Treasury check.

The instant application is released to Publications Branch to be processed into a patent in due course.

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/23/06

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/194560 Patent No.: **6811470**

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**.

G. Green

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: LW LEE D. WILSON
PRIMARY EXAMINER

SPE

3723
Art Unit

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COMMISSIONER FOR PATENTS
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4/4/05

In re Application of	:	
SELEZNEV, IGOR	:	NOTICE OF WITHDRAWAL
Serial No.10/194561	:	FROM ISSUE
Filed: July 13, 2002	:	UNDER 37 CFR 1.313(b)
For: VACUUM PROCESSING FOR FABRICA-	:	
TION OF SUPERCONDUCTING FILMS FABRI-	:	
CATED BY METAL-ORGANIC PROCESSING	:	

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 Christine Tierney at (571) 272-1055.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

J. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Valarie B. Rosen
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston MA 02109

cc: Allowed Files—Pk3-910

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LaRiviere, Grubman & Payne, LLP
P.O. Box 3140
Monterey, CA 93942

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OFFICE OF PETITIONS

In re Application of

Anthony Don Cao :

Application No. 10/194,563

: DECISION ON PETITION

Filed: July 12, 2002

:

Attorney Docket No. P1454

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on August 15, 2005, for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief mailed July 14, 2005, which set a shortened statutory period for reply of one (1) month from its mailing date. An Appeal Brief was filed on August 10, 2005, which was deemed to be non-compliant by a communication mailed October 28, 2005. A Notice of Abandonment was mailed on December 1, 2005.

The Appeal Brief filed April 12, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2191 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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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,179,897	:
Issued: February 20, 2007	: LETTER REGARDING PATENT
Application No. 10/194,584	: TERM ADJUSTMENT
Filed: July 12, 2002	:
Atty. Dkt. No: 01997-261002	:

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed April 19, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,179,897 on February 20, 2007. The patent issued with a patent term adjustment (PTA) of 281 days. Patentees suggest the PTA appears to be longer than appropriate.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 172 days.

A review of calculation of adjustment reveals that at the time of allowance, an adjustment of 349 days can be attributed to the Office[1].

At the time of issuance, the adjustment was reduced 68 days for applicants' failure to engage in reasonable efforts to conclude prosecution[2].

---

[1] An adjustment of 12 days was properly attributed to the Office under 37 CFR 1.702(a)(1) in connection with the restriction requirement mailed September 24, 2003. A further adjustment of 41 days was properly attributed to the Office in accordance with 37 CFR 1.702(a)(2) in connection with the final Office action mailed February 23, 2005. A further adjustment of 115 days was properly attributed to the Office in accordance with 37 CFR 1.702(a)(4). A further adjustment of 181 days was properly attributed to the Office in accordance with 37 CFR 1.702(b).

[2] The adjustment was properly reduced three days in accordance with 37 CFR 1.704(b) in connection with the response filed May 27, 2004 in response to the non-final Office action mailed February 24, 2004. The adjustment was further properly reduced 65 days in accordance with 37 CFR 1.704(b) in connection with the response filed July 27, 2005 in response to the final Office action mailed February 23, 2005.

The Office neglected to reduce the adjustment 109 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental response submitted September 13, 2004. The reduction began May 28, 2004, the day after the date that the initial response was filed, and ended September 13, 2004, the date the supplemental response was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 172 days.

As patentees are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 172 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson for

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,179,897 B2
DATED	:	February 20, 2007
INVENTOR(S)	:	Housman 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 281 days

Delete the phrase "by 281 days" and insert – by 172 days--

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MARK COHEN
EITAN, PEARL, LATZER, COHEN-ZEDEK, LLP
10 ROCKERFELLER PLAZA
NEW YORK, NY 10020

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OFFICE OF PETITIONS

In re Application of	:	
Glen N. Barber	:	
Application No. 10/194,594	:	ON PETITION
Filed: July 11, 2002	:	
Attorney Docket No. 529372000200	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed May 12, 2005, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed September 23, 2005 indicating that the reply filed on September 12, 2005, failed to place the application in condition for allowance. Accordingly, the application became abandoned on September 13, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $450 extension of time submitted with the petition on December 6, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

In view of the submission of the petition fee in the large entity amount of $1500, status as a small entity remains. If the application is, in fact, entitled to large entity status, petitioner should promptly file a petition under 37 CFR 1.28.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed December 6, 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 forwarded to Technology Center 1600, Art Unit 1635 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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THE ECLIPSE GROUP
26895 ALISO CREEK ROAD
SUITE B-104
ALISO VIEGO, CA 92656-5301

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OFFICE OF PETITIONS

In re Application of :
Ashutosh Pande, et al. :
Application No. 10/194,627 : ON PETITION
Filed: July 12, 2002 :
Attorney Docket No. ST00012C3(104-US-C3) :

This is a decision in response to the petition, filed November 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gregory B.Gulliver appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Gulliver desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 8, 2004. A Notice of Abandonment was mailed on July 5, 2006. In response, on November 7, 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; and (3) the required statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2617 for consideration of the amendment filed November 7, 2006.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY B. GULLIVER
10805 BALBOA BLVD., SUITE 300
GRAND HILLS, CA 91344

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333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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OFFICE OF PETITIONS

In re Application of	:
Don E. Reich	:
Application No. 10/194,633	: DECISION ON PETITION
Filed: July 12, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. OSLJ-074595	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 21, 2004, 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 March 18, 2003, and supplemented concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 19-1853.

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

---

[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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48TH FLOOR
LOS ANGELES, CA 90071-1448

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OFFICE OF PETITIONS

In re Application of
Don E. Reich
Application No. 10/194,633
Filed: July 12, 2002
Attorney Docket No. OSLJ-074595

: 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 August 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on July 12, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center Art Unit 3726 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

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DEC 2 4 2008

In re Patent No. 6707092	:	
Issue Date: 03/16/2004	:	
Application Number: 10/194723	:	ON PETITION
Filing Date: 07/12/2002	:	
Attorney Docket Number:	:	
075834.00132	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 4, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 16, 2008, for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Petition Information for 10/194723

Entry Date	Type Requested	Petition Filing Date	Decision	Type Decided	Decision Date	Deciding Official	Deciding Office
12/12/2008	533	~~11/12/2008~~ 11/4/08				WOOD, DOUGLAS I	

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

Search Another: Application # [ ] Search or Patent# [ ] Search

PCT / [ ] / [ ] Search or PG PUBS # [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

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NOTE

RECEIPT DATE

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Docket Number (Optional): 075834.00132

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,707,092 Application Number 10/ 194,723

Issue Date March 16, 2004 Filing Date July 12, 2002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____; original application number _____, original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

11/4/08
Date

Signature

Robert J. Depke
Typed or printed name of person signing Certificate

11/07/2008 DALLEN 00000026 503891 6707092
01 FC:1551 980.00 DA
02 FC:1558 1640.00 DA

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. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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TECHNOLOGY CENTER 3600

PEACOCK, MEYERS, AND ADAMS, P.C.
P.O. BOX 26927
ALBUQUERQUE, NEW MEXICO 87125-6927

In re application of Anthony Simoes Application No. 10/194,729 Filed: July 10, 2002 For: HANDICAP PLACARD DASH DISPLAY	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 04, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **DISMISSED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The statement provided is not signed by the applicant.

Any request for re consideration must be filled within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until renewed petition is submitted, the application will be returned to the examiners docket to await treatment on the merits in the normal order of examination

SUMMARY: Petition to Make Special **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 11/29/04

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JUN 27 2005

TECHNOLOGY CENTER 3600

PEACOCK MYERS AND ADAMS, P. C.
P. O. BOX 26927
ALBUQUERQUE, NM 87125-6927

In re application of Anthony Simoes Application No. 10/194,729 Filed: July 10, 2002 For: HANDICAP PLACARD DASH DISPLAY	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the renewed petition submitted on May 26, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a statement signed by Anthony Simoes indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 6/17/05

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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Anthony Simoes :
Application No. 10/194,729 : ON PETITION
Filed: July 10, 2002 :
Attorney Docket No. 31290-1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2005, 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. However, in accordance with 37 CFR 1.34(a), the signature of Vidal A. Oaxaca appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Oaxaca desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application became abandoned for a failure to timely file an Appeal Brief within two months of the August 4, 2004 date of the Notice of Appeal. A Notice of Abandonment was mailed on March 24, 2005. The Appeal Brief was filed on May 26, 2005.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

The application is being referred to Technology Center AU 3611.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Vidal A. Oaxaca
P.O. Box 26927
Albuquerque, NM 87125-6927

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Paper No. None

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of :
James A. Welker et al. :
Application No. 10/194,765 :
Filed: July 12, 2002 :
Attorney Docket Number: :
SC11892TH :
Title: METHOD AND APPARATUS FOR :
SKEWING DATA WITH RESPECT TO :
COMMAND ON A DDR INTERFACE :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on March 30, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 15, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 16, 2005. A notice of abandonment was mailed on March 6, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a)

of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he submitted a response to the non-final Office action on August 3, 2005, and has provided a copy of this response. The response contains a certificate of facsimile transmission dated August 3, 2005.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of mailing was executed by one Pat Thomas, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. On renewed petition, Petitioner may wish to include a statement from Ms. Thomas.

Pursuant to the discussion above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

CONCLUSION

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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LAW DEPARTMENT
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OFFICE OF PETITIONS

In re Application of :
James A. Welker et al. :
Application No. 10/194,765 :
Filed: July 12, 2002 :
Attorney Docket Number: :
SC11892TH :
Title: METHOD AND APPARATUS FOR :
SKEWING DATA WITH RESPECT TO :
COMMAND ON A DDR INTERFACE :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on July 21, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 15, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 16, 2005. A notice of abandonment was mailed on March 6, 2006.

PROCEDURAL HISTORY

The original petition was received on March 30, 2006, and was dismissed via the mailing of a decision on July 11, 2006, for Petitioner failed to comply with 37 C.F.R. §1.8(b)(3), in that

he failed to include a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

ANALYSIS

With this renewed petition, the previous deficiency has been rectified. As such, the petition under 37 C.F.R. §1.181 is **GRANTED**.

CONCLUSION

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 Pre-Appeal Brief Request for Review can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,133,621 :
Issue Date: November 7, 2006 :
Application No. 10/194,795 :
Filed: July 12, 2002 :
Attorney Docket No. 1817 :

This is a decision on the petition filed May 3, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

Applicant: Oudeyer	: ON PETITION
Issue Date : Nov. 11, 2008	: 37 CFR 1.705(d)
Application No: 10/194,848	:
Patent No. 7,451,079	: REQUEST FOR RECON
Filed: July 12, 2002	: PATENT TERM
Attorney Docket: 282708US8X	: ADJUSTMENT

This is a decision on the petition filed on January 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-nine (1189) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-nine (1189) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred eighty-nine (1189)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries

Senior Legal Advisor Attorney
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 : 7,451,079 B2

DATED : November 11, 2008 **Draft**

INVENTOR(S) : Oudeyer

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 (1189) days

Delete the phrase "by 890 days" and insert – by 1189 days--

PALM INTRANET

Day : Monday
Date: 4/5/2010
Time: 09:24:35

PTA Calculations for Application: 10/194848

Application Filing Date:	07/12/2002	PTO Delay (PTO):	931
Issue Date of Patent:	11/11/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	41
Post-Issue Petitions:	0	Total PTA (days):	1189
PTO Delay Adjustment:	299		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	04/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	299		
82.5	10/22/2008	PTA 36 MONTHS			
82	11/11/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
81	10/03/2008	EXPORT TO FINAL DATA CAPTURE			
80	10/02/2008	DISPATCH TO FDC			
79	10/02/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
78	10/01/2008	ISSUE FEE PAYMENT VERIFIED			
77	10/01/2008	ISSUE FEE PAYMENT RECEIVED			
76	08/22/2008	FINISHED INITIAL DATA CAPTURE			
72	07/15/2008	MAIL NOTICE OF ALLOWANCE			
71	07/08/2008	ISSUE REVISION COMPLETED			
70	07/07/2008	DOCUMENT VERIFICATION			
69	07/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	07/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
67	07/07/2008	NOTICE OF ALLOWABILITY			
66	05/19/2008	DATE FORWARDED TO EXAMINER			
65	04/04/2008	RESPONSE AFTER NON-FINAL ACTION			
64	04/23/2008	EMAIL NOTIFICATION			
63	04/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
62	04/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
61	01/17/2008	ELECTRONIC REVIEW			
60	01/16/2008	EMAIL NOTIFICATION			
59	01/14/2008	MAIL NON-FINAL REJECTION			

58	01/07/2008	NON-FINAL REJECTION			
57	12/17/2007	DATE FORWARDED TO EXAMINER			
56	12/04/2007	RESPONSE AFTER NON-FINAL ACTION			
55	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
54	09/19/2007	ELECTRONIC REVIEW			
53	09/18/2007	EMAIL NOTIFICATION			
52	09/14/2007	MAIL NON-FINAL REJECTION			
51	09/06/2007	NON-FINAL REJECTION			
50	07/02/2007	DATE FORWARDED TO EXAMINER			
49	06/26/2007	RESPONSE AFTER NON-FINAL ACTION			
48	04/03/2007	ELECTRONIC REVIEW			
47	04/02/2007	EMAIL NOTIFICATION			
46	04/02/2007	MAIL NON-FINAL REJECTION			
45	03/28/2007	NON-FINAL REJECTION			
44	01/31/2007	DATE FORWARDED TO EXAMINER			
43	01/24/2007	RCE- AF PROCESSED			
42	01/31/2007	DATE FORWARDED TO EXAMINER			
41	01/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		41	33
40	01/31/2007	DISPOSAL FOR A RCE / CPA / R129			
39	01/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	01/16/2007	MAIL ADVISORY ACTION (PTOL - 303)			
36	01/11/2007	ADVISORY ACTION (PTOL-303)			
35	01/08/2007	DATE FORWARDED TO EXAMINER			
34	12/14/2006	AMENDMENT AFTER FINAL REJECTION			
33	09/14/2006	MAIL FINAL REJECTION (PTOL - 326)			
32	09/13/2006	FINAL REJECTION			
31	07/11/2006	DATE FORWARDED TO EXAMINER			
30	06/30/2006	RESPONSE AFTER NON-FINAL ACTION			
29	06/16/2006	CORRESPONDENCE ADDRESS CHANGE			
28	06/16/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
27	03/31/2006	MAIL NON-FINAL REJECTION	931		-1
26	03/29/2006	NON-FINAL REJECTION			
25	09/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

24	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	09/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	06/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	09/27/2004	REFERENCE CAPTURE ON IDS			
20	09/10/2002	MISCELLANEOUS INCOMING LETTER			
19.7	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/12/2002	PRELIMINARY AMENDMENT			
17	09/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/12/2002	CLAIMS PTO			
15	07/23/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	12/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	09/18/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10	09/10/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
9	09/12/2002	APPLICATION DISPATCHED FROM OIPE			
8	09/05/2002	APPLICATION IS NOW COMPLETE			
2	07/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Stierman, et al.
Application No. 10/194,892
Filed: July 12, 2002
Attorney Docket No. TI-30590.1
For: STRUCTURE AND METHOD FOR BOND PADS OF COPPER-METALLIZED INTEGRATED CIRCUITS

ON PETITION

This is a decision on the petition filed October 16, 2002 (certificate of mailing date October 9, 2002), requesting, in effect, withdrawal of a Notice mailed August 26, 2002.

The application was filed on July 12, 2002. However, on August 26, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of July 12, 2002, and advising applicants that pages 7 and 8 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that pages 7 and 8 of the specification should be accorded the same filing date as the papers filed on July 12, 2002, because they were originally filed in prior application No. 09/775,322, the entire disclosure of which was incorporated by reference at the time the application at issue was filed..

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 items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items 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 items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing pages were actually deposited in the PTO on July 12, 2002 with the other application papers nor request a later filing date.

Instead, applicants seek to add the pages to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the

> application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicants desire that pages 7 and 8 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 12, 2002. Pages 7 and 8 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert P. Marley
Motorola, Inc.
Broadband Communications Sector
101 Tournament Drive
Horsham PA 19044

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of:
MEDVINSKY, Alexander, et al.
Application No.: 10/194,922
Filing Date: July 12, 2002
Attorney's Docket No.: 018926-008000US
For: KEY MANAGEMENT INTERFACE TO MULTIPLE AND SIMULTANEOUS PROTOCOLS

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b), filed August 08, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 11, 2006, which set a three (3) month period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, by operation of law, the above-identified application became abandoned on February 11, 2007.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. The present petition was accompanied by: a four-page document entitled "Remarks For Pre-Appeal Brief Request For Interview;" a one-page document entitled "Pre-Appeal Brief Request For Review" which indicates that it was accompanied by a Notice of Appeal, and payment of the petition fee and the notice of appeal fee. However, the application file does not include the Notice of Appeal that was purportedly filed by applicants. Absent a Notice of Appeal, the materials submitted by applicants with the present petition are not an acceptable reply to the final Office action mailed November 11, 2006.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3296

Richard M. Ross
Attorney Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RANKIN, HILL, PORTER & CLARK, LLP
925 EUCLID AVENUE, SUITE 700
CLEVELAND, OH 44115-1405

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Vlach et al.	:	
Application No. 10/194,932	:	ON PETITION
Filed: July 12, 2002	:	
Attorney Docket No. CER-15340	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 6, 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 1, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 2, 2003. A Notice of Abandonment was mailed on February 10, 2003.

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 the Publishing Division for processing into a patent.

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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WASHINGTON, D.C. 20231
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DW 02-03

Paper No. 6

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Pazienza, Dallara, and Gladdish	: DECISION REFUSING STATUS
Application No. 10/194,944	: UNDER 37 CFR 1.47(a)
Filed: 12 July, 2002	:
Attorney Docket No. ENDOV-56263	:

This is in response to the petition filed under 37 CFR 1.47(a) on 17 January, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 July, 2002, without an oath or declaration. Accordingly, on 12 August, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the statutory basic filing fee, an oath or declaration, a surcharge for their late filing, and additional claim fee(s). A two (2) month period for reply was set.

In response, on 17 January, 2003 (certificate of mailing date 10 January, 2003), petitioners filed a three (3) month time extension, accompanied by the basic filing fee, surcharge,

additional claim fee(s), and a declaration naming John Pazienza, Mark Dallara, and Bennie Gladdish as joint inventors and signed by joint inventors Pazienza and Gladdish on behalf of themselves and joint inventor Dallara.

Petitioners state that joint inventor Dallara refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2). In regards to item (1), petitioners have not provided proof that Dallara was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). The declaration of counsel's secretary, Kerry Tuszynski, states only that she sent the declaration and a power of attorney to non-signing joint inventor Dallara. There is no proof provided, however, that the application as filed was sent to the non-signing inventor. Petitioners must sent a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Although the petition states that a check for the petition fee in the amount of $130.00 is enclosed, no check for $130.00 for the petition fee is located among the papers received with the present petition on 17 January, 2003. Therefore, counsel's deposit account, No. 06-2425, will be charged the petition fee as authorized in the "Response to Notification of Missing Parts Requirements Under 37 CFR 1.53(b)" filed on 17 January, 2003.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of	:
Pazienza, Dallara, and Gladdish	: DECISION ACCORDING STATUS
Application No. 10/194,944	: UNDER 37 CFR 1.47(a)
Filed: 12 July, 2002	:
Attorney Docket No. ENDOV-56263	:

This is in response to the request for reconsideration filed by facsimile on 17 March, 2003, which is treated as a renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Mark Dallara, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the statement of counsel's secretary, Kerry Tuszynski, establishes that the a copy of the application papers were sent to the inventor's last known address. However, the inventor failed to sign and return the declaration naming him as a joint inventor along with John Pazienza and Bennie Gladdish.

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 Office notes that joint inventor Gladdish signed the declaration as "Bennie W. Gladdish, Jr." Petitioner is reminded that the declaration will issue with the names of the inventors as typewritten. If petitioner wishes the patent to issue in the name of joint inventor Gladdish as he signed the declaration rather than as his name is typewritten, a petition under 37 CFR 1.182 to change in the inventor's name is required, accompanied by the requisite petition fee.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
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
DIW 03-03

Mark Dallara
603 South Newport Avenue, #4
Tampa, FL 33606

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of
Pazienza et al.
Application No. 10/194,944
Filed: 12 July, 2002
For: ENDOVASCULAR STENT-GRAFT WITH FLEXIBLE BIFURCATION

Dear Mr. Dallara:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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Paper No. 9

CARLSON GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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APR 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Mao Shi Khoo et al :
Application No. 10/194,979 : NOTICE
Filed: July 12, 2002 :
Attorney Docket No. 67,063-003 :

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 3712 to await a reply to the non-final Office action mailed April 6, 2004.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WASHINGTON, D.C. 2023
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MAIL

MAR 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 5

Ivan Posey, Esq.
BROWN RAYSMAN MILLSTEIN
FELDER & STEINER, LLP
1880 Century Park East, #711
Los Angeles, CA 90067

In re Application of: Russell M. Richman	)	
Application No. 10/194,990	)	
Filed: July 11, 2002	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD OF	)	**WITHDRAWAL AS ATTORNEY**
PROCESSING TRANSACTIONS	)	
OFF-LINE		

This is a decision on the Request To Withdraw from Representation filed February 06, 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 February 06, 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: Mark Bologh
Director of Marketing
DESKSITE, INC.
2681 Kelvin Avenue, Suite 127
Irvine, CA 92614

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.

MOLECULAR IMPRINTS, INC.
KENNETH C. BROOKS
PO BOX 81536
AUSTIN, TX 78708-1536

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of Sreenivasan et al. Application No. 10/194,991 Filed: July 11, 2002 Atty Docket No. P33-07-02	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 18, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to three hundred thirty-six (336) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred ninety-one **(291)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 3, 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 0 days. The period of adjustment of 341 days for Office delay was reduced by periods of 435 and 5 days for applicant delay. On April 18, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 336 days. Applicants dispute the reduction of 435 days attributed to their delay in responding to the Notice to File Missing Parts of

[1] PALM records indicate that the Issue Fee was also received in the Office on April 20, 2005.

Application mailed August 21, 2002. Applicants state that a complete reply was received in the Office on October 28, 2002; however, the declaration was misplaced by the Office. In response to a Notice of Incomplete Reply, on January 30, 2004, applicants resubmitted the declaration, along with *prima facie* evidence in the form of a properly itemized and date-stamped postcard. Applicants contend that the Office erred in using the date of re-submission of the declaration, and entering a period of reduction of 435 days.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants are correct. Their response to the Notice to File Missing Parts of Application was established to have been received in the Office on October 28, 2002. Furthermore, given the presence of the declaration among the papers filed on October 28, 2002, the response included a complete reply to the Notice. A complete response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application. No period of reduction of 435 days is warranted.

However, a review of the record further reveals another basis for entering a period of reduction. After applicants' response after non-final Office action received November 22, 2004, on January 6, 2005, applicants filed an Information Disclosure Statement (IDS). 37 CFR § 1.704(c)(8) provides that:

> submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

The record does not support a conclusion that the IDS was expressly requested by the examiner. Nor was the IDS accompanied by a § 1.704(d) statement. Accordingly, the PTA should have been reduced pursuant to § 1.704(c)(8). Specifically, the PTA should have been reduced by 45 days, the number of days beginning on the day after the date the initial reply was filed, November 23, 2004, and ending on the date that the supplemental paper was filed, January 6, 2005 for the filing of the IDS.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred ninety-one (291) 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 is being forwarded to the Office of Patent Publication for issuance of the application. The revised patent term adjustment indicated on the patent will include any additional patent term earned for Office failure to issue the patent within four months after the date the issue fee was paid and all outstanding requirements were satisfied.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 17 2003

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ALEXANDRIA, VA 22313-1450
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#9

Pearne & Gordon LLP
526 Superior Avenue, East
Suite 1200
Cleveland, OH 44114-1484

In re Application of :
Pearl E. Grimes et al :
Serial No.: 10/195,008 : DECISION ON PETITION
Filed: July 11, 2002 :
For: Microdermabrasion Composition & Kit:

This is in response to the petition applicant filed on June 25, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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OCT 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JAMES/ BRENDA MOORE
19276 STAFFORD AVE.
MAPLE HTS. OH 44137

In re Application of
James A. Moore, et al.
Application No. 10/195,028
Filed: July 9, 2002
For: **TELEPHONE REMOTE**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Abandonment filed August 24, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed December 2, 2004. A Notice of Abandonment was mailed July 8, 2005. It is noted that the Notice of Abandonment errantly states that the application was abandoned for failure to timely file a proper reply to the Office letter mailed on January 25, 2005.

Petitioner alleges to have timely filed a response to said Office communication on January 25, 2005. Petitioner has provided no evidence to support such an assertion.

In a telephone conversation between the undersigned and (pro-se) co-inventor Brenda Moore on August 11, 12 and 16, 2005, it was indicated that the applicant had submitted a copy of the Office communication mailed on December 2, 2004 along with their response.

A review of the application file reveals a copy of the Office communication originally mailed on December 2, 2004, along with a response by applicant, received on January 25, 2005. This re-submission of the original Office communication resulted in the examiner referencing the January 25, 2005 date in the Notice of Abandonment.

Therefore, although applicant's response does not address the examiner's rejection, it is determined, given that applicant is a pro-se inventor, that the response of January 25, 2005 was a bona fide attempt at response.

Therefore, the application was not abandoned in fact and the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Applicant's petition is **Granted**.

However, as stated within the conversations of August 11, 12 and 16, 2005, applicant's reply is not fully responsive to the examiner's action. In order to response to the outstanding Office action, applicants should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

The application file is being forwarded to the examiner for preparation of a Non-Responsive action, which will set a thirty day period for submission of a full reply to the outstanding Office action.

As per applicants' request, the examiner's telephone number has in fact changed. The assigned examiner's (i.e., Cong Tran) new telephone number is (571) 272-7871.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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TECHNOLOGY CENTER 2600

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JAMES/ BRENDA MOORE
19276 STAFFORD AVE.
MAPLE HTS. OH 44137

In re Application of
James A. Moore, et al.
Application No. 10/195,028
Filed: July 9, 2002
For: **TELEPHONE REMOTE**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Abandonment filed August 24, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed December 2, 2004. A Notice of Abandonment was mailed July 8, 2005. It is noted that the Notice of Abandonment errantly states that the application was abandoned for failure to timely file a proper reply to the Office letter mailed on January 25, 2005.

Petitioner alleges to have timely filed a response to said Office communication on January 25, 2005. Petitioner has provided no evidence to support such an assertion.

In a telephone conversation between the undersigned and (pro-se) co-inventor Brenda Moore on August 11, 12 and 16, 2005, it was indicated that the applicant had submitted a copy of the Office communication mailed on December 2, 2004 along with their response.

A review of the application file reveals a copy of the Office communication originally mailed on December 2, 2004, along with a response by applicant, received on January 25, 2005. This re-submission of the original Office communication resulted in the examiner referencing the January 25, 2005 date in the Notice of Abandonment.

Therefore, although applicant's response does not address the examiner's rejection, it is determined, given that applicant is a pro-se inventor, that the response of January 25, 2005 was a bona fide attempt at response.

Therefore, the application was not abandoned in fact and the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Applicant's petition is <u>Granted</u>.

However, as stated within the conversations of August 11, 12 and 16, 2005, applicant's reply is not fully responsive to the examiner's action. In order to response to the outstanding Office action, applicants should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

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The application file is being forwarded to the examiner for preparation of a Non-Responsive action, which will set a thirty day period for submission of a full reply to the outstanding Office action.

As per applicants' request, the examiner's telephone number has in fact changed. The assigned examiner's (i.e., Cong Tran) new telephone number is (571) 272-7871.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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JAMES/ BRENDA MOORE
19276 STAFFORD AVE
MAPLE HTS OH 44137

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OFFICE OF PETITIONS

In re Application of	:	
James A. Moore, Brenda L. Moore	:	
Application No. 10/195,028	:	ON PETITION
Filed: July 9, 2002	:	
Title: Telephone Remote	:	

This is in response to the letter filed April 18, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

A review of the record indicates that applicant previously filed a petition to withdraw the holding of abandonment on August 24, 2005, which was granted in a decision mailed April 5, 2006. Despite the decision, a Notice of Abandonment was mailed on April 13, 2006. In view of the April 5, 2006 decision granting the petition and withdrawing the holding of abandonment, if it obvious that the Notice of Abandonment was mailed in error.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The Notice of Abandonment mailed April 13, 2006 is **VACATED**.

It is noted that the letter filed April 18, 2006 is not signed by Brenda Moore. Not only must correspondence submitted to the USPTO be signed, it must contain the signature of all of the applicants (inventors) for patent, unless the applicants are

represented by a registered attorney or agent, or have assigned their rights in the application to an assignee. In this instance, this requirement is being waived *sua sponte* by the Office. Applicant is reminded of the requirement (that correspondence contain the signatures of both Brenda and James Moore) for future correspondence being submitted to the USPTO.

In accordance with the April 5, 2006 decision, the matter is being forwarded to Group Art Unit 2617 for preparation of a Non Responsive Action, which will set a thirty day period for reply.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES/ BRENDA MOORE
19276 STAFFORD AVE
MAPLE HTS OH 44137

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FEB 01 2008

OFFICE OF PETITIONS

In re Application of	:	
James A. Moore, Brenda L. Moore	:	CORRECTED DECISION
Application No. 10/195,028	:	ON PETITION
Filed: July 9, 2002	:	
Title: Telephone Remote	:	

This is a corrected decision on petition, in response to the letter filed April 18, 2006, which was treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The petition was erroneously granted in a decision mailed on November 2, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

The above application became abandoned for failure to file a **timely** reply to the Office action mailed November 22, 2005. This Office action set a shortened statutory period for reply of one (1) month. Extensions of time under 37 CFR 1.136(a) were available. Applicants filed a reply on February 9, 2006. However, the reply was not accompanied by the appropriate extension of time. As such, the application became abandoned on December 23, 2005. The Office mailed a Notice of Abandonment on April 13, 2006. Applicants filed a letter on April 18, 2006, which was treated as a petition to withdraw the holding of abandonment, and erroneously granted in a decision mailed on November 2, 2006.

The application remains abandoned. If petitioner can not submit proof that a timely reply to the November 22, 2005 Office action was filed, then petitioner may wish to consider reviving the application by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $770 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. A form for a petition to revive is enclosed for applicants' convenience. The form must be signed by both of the applicants for patent, if applicants are not represented by an attorney, or an assignee has not taken action in the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JUL 28 2006
OFFICE OF PETITIONS

In re Application of	:
Remy Veysset et al	:
Application No. 10/195,052	: DECISION GRANTING PETITION
Filed: July 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15675P408	:

This is a decision on the petition, filed July 26, 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 January 10, 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 03-05

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Henry et al.	:	
Application No. 10/195,083	:	ON PETITION
Filed: 12 July, 2002	:	
Atty Docket No. CNTR.1390.C1	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on 31 January, 2005, which is first treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The application was filed on 12 July, 2002. On 15 September, 2004, a Notice of Allowance and Issue Fee Due was mailed, requiring payment of the issue and publication fees. A three (3) month statutory period was set. No reply having been received, the application was held abandoned on 16 December, 2004. Notice of Abandonment was mailed on 20 January, 2005.

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioners assert that the issue and publication fees were timely filed. In support, petitioners have provided a copy of the Issue Fee Transmittal Sheet, stating that a check in the amount of the fee is enclosed, bearing a Certificate of Mailing or Transmission dated 27 October, 2004, signed by registered patent attorney Richard K. Huffman.

Petitioners have also filed a statement by attorney Huffman stating that the Issue Fee Transmittal form and check were submitted, via the USPS, on 27 October, 2004.

Based on the showing of record, the evidence is convincing that the issue publication fees were timely filed on 27 October, 2004. As such, petitioners have met the requirements for granting the petition under 37 CFR 1.181.

In accordance with the above finding, the holding of abandonment is withdrawn, and the Notice of Abandonment mailed on 20 January, 2005 is vacated.

The application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

CHARLES E. SHEMWELL
SHEMWELL & GREGORY LLP
4880 STEVENS CREEK BLVD., STE. 201
SAN JOSE, CA 95129-1034

MAIL

JUL 1 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Zerbe et al. :
Application No. 10/195,129 :
Filed: July 12, 2002 :
For: SELECTABLE-TAP EQUALIZER :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 27, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Charles E. Shemwell is removed from the record. All other attorneys remain of record, since Customer No. 30,554 is not apparently associated with the file.

Since the correspondence address is not affected by this withdrawal, all future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

MAIL

NOV 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Charles E. Shemwell
Shemwell & Gregory LLP
Suite 201
4880 Stevens Creek Blvd.
San Jose CA 95129-1034

In re Application of :
Zerbe :
Application No. 10/195,130 :
Filed: July 12, 2002 :
For: AUTO-CONFIGURED EQUALIZER :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 27, 2003.

A grantable request to withdraw as attorney/agent of record must include the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The attorney/agent, listed is granted the request for withdraw. The correspondence address is not affected by the withdraw.

Accordingly, the request is **GRANTED**.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091023

DATE : October 23, 2009

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction on Patent No.: 7,023,442

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:

/Kenneth N Vanderpuye/
Supervisory Patent Examiner, Art Unit 2613

OIPE JC169
OCT 0 9 2002
PATENT & TRADEMARK OFFICE

Attorney Docket No. 1051.01 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: WETTSTEIN et al.
Serial No.: 10/195,142
Filed: July 10, 2002
For: NOVEL PN9826 NUCLEIC ACIDS AND USE THEREOF

October 9, 2002

BOX MISSING PARTS
Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to a Notice to File Missing Parts of Application under 37 CFR 1.53(b) dated August 13, 2002, response copy attached, a Declaration and Power of Attorney identifying the above referenced application by Serial Number and Filing Date is herewith submitted.

Applicants note that the Notice erroneously indicates that fees for a total 33 claims are required when in fact **the application contains only 32 claims.**

Also enclosed is check in the amount of $935 covering the following filing fees and surcharge under 37 C.F.R. 1.16(e):

$ 65.00	(surcharge under 37 C.F.R. 1.16(e))
370.00	(basic filing fee)
500.00	(additional claims fee)
$ 935.00	TOTAL

Please charge any additional fees or credit any overpayment for the payment of the filing fee, any extra claims fees or the surcharge to our Deposit Account No. 50-1627.

Respectfully submitted,

Jay Z. Zhang
Registration No. 44,003

OIPE JC169
OCT 0 9 2002
PATENT & TRADEMARK OFFICE

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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
10/195,142	07/10/2002	Daniel Albert Wettstein	1051.01

CONFIRMATION NO. 1905

FORMALITIES LETTER

OC000000008614199

26698
MYRIAD GENETICS INC.
LEGAL DEPARTMENT
320 WAKARA WAY
SALT LAKE CITY, UT 84108

Date Mailed: 08/13/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

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.

$500

- Additional claim fees of **$509** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

10/11/2002 SDENBOB1 00000090 10195142

SUMMARY OF FEES DUE:

$935

01 FC:201 370.00 OP
02 FC:203 108.00 OP
03 FC:202 252.00 OP
04 FC:205 65.00 OP
05 FC:204 140.00 OP

Total additional fee(s) required for this application is **$944** for a Small Entity

- **$370** Statutory basic filing fee.

10/23/2002 YGIZAW 00000004 501627 10195142

01 FC:2202 9.00 CH

- **$65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$509** $500
  - **$117** for **13** total claims over 20.
  - **$252** for **6** independent claims over 3.
  - **$140**for multiple dependent claim surcharge.

$108 12

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/195,146	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. 0756-7018	:	

This is a decision on the petition, filed August 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 April 21, 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 2811 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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AUG 0 6 2004
OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/195,146 : ON PETITION
Filed: July 15, 2002 :
Attorney Docket No. 0756-7018 :

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Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NORMAN M. CAMERON
SUITE 1401 – 1166 ALBERNI STREET
VANCOUVER BC V6E 3Z3 CA CANADA

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Young et al	:	
Application No. 10/195,150	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. 1057P38US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 7, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 8, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3747 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy