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Paper No.

JOE J. DOMINGUEZ
3342 CRESTDALE DR.
HOUSTON, TX 77080

COPY MAILED

DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Joe Dominguez	:	DECISION ON
Application No. 10/195,153	:	PETITION
Filed: July 16, 2002	:	
Title: DRINK CADDY	:	

This is in response to the paper titled "Petition To Revive Under 37 CFR 1.137," filed November 17, 2005. This paper is being treated as a petition to revive based on unavoidable delay.

The petition under §1.137(a) is **DISMISSED** without consideration on the merits.

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

The above-identified application became abandoned for failure to file a timely reply to the Office action mailed July 6, 2005. The Office action indicated that the period for reply continued to run from the period set forth in the prior Office action mailed April 6, 2005 (which set a one-month period for reply with extensions of time obtainable under § 1.136(a)). A response was filed (including a one-month extension of time) on May 31, 2005. However, by Office action mailed July 6, 2005, the examiner advised applicant that the reply was not fully

responsive. No further extension of time having been obtained and the maximum period for extension having expired, the application became abandoned. A Notice of Abandonment was mailed on November 10, 2005.

RELEVANT REGULATIONS

37 CFR 1.137(a) provides, in pertinent part, that:

If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 CFR 1.137(b) provides, in pertinent part, that:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

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

Applicant filed the instant petition on November 17, 2005. Applicant requests more time to file his reply to the non-responsive Office action of July 6, 2005, explaining that he had surgery and had been medically disabled. No payment of a fee accompanies this request.

Applicant is again reminded that an extension of time must be filed within the extendable period for reply. As the maximum period for reply had expired, applicant can no longer request (and the examiner has no authority to authorize) an extension of time to avoid abandonment. The application is now abandoned.

However, applicant may request revival of the application based on either unavoidable delay under 1.137(a) or unintentional delay under 1.137(b). Applicant offers an explanation for the delay, but does not include the required reply or payment of a fee for consideration of the explanation. (For a small entity, the petition fee under § 1.137(a) is currently $250.00 and the petition fee under §1.137(b) is currently $750).

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a), was unavoidable.

As payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of an abandoned application and petitioner has not made such a payment, the petition must be **dismissed**.

For applicant's convenience, copies of the forms used to file both types of petitions are enclosed.

Applicant is further advised that the standard for showing unavoidable delay is very stringent. The statements currently submitted would not be sufficient to meet that standard.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Forms PTO/SB/61 and PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

JOE J. DOMINGUEZ
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HOUSTON, TX 77080

COPY MAILED
JUN 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Joe Dominguez	:	DECISION ON
Application No. 10/195,153	:	PETITION
Filed: July 16, 2002	:	
Title: DRINK CADDY	:	

This is in response to the paper titled "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed January 20, 2006.

The petition under § 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a timely reply to the Office action mailed July 6, 2005. The Office action indicated that the period for reply continued to run from the period set forth in the prior Office action mailed April 6, 2005 (which set a one-month period for reply with extensions of time obtainable under § 1.136(a)). A response was filed (including a one-month extension of time) on May 31, 2005. However, by Office action mailed July 6, 2005, the examiner advised applicant that the reply was not fully responsive. No further extension of time having been obtained and the maximum period for extension having expired, the

application became abandoned. A Notice of Abandonment was mailed on November 10, 2005.

By decision mailed December 14, 2005, an initial petition under § 1.137(a) was dismissed without consideration on the merits for failure to include payment of the required petition fee. On instant petition, petitioner submitted the petition fee for consideration based on unavoidable delay.

37 CFR 1.137(a) provides, in pertinent part, that:

If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition does not satisfy requirements (1) and (3). As to requirement (1), no reply to the non-final Office action was received with the petition. A petition is not a reply. In order to revive the application, petitioner must submit a reply that is directed to the Office action. For example, petitioner may submit a signed reply that is in compliance with § 1.121, as stated in the Advisory Action mailed July 6, 2005 and the Office action mailed April 6, 2005. Further, as stated by the examiner, it is reiterated that:

> An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the

> value of a patent is largely dependent upon skilled preparation and prosecution. However, the Office cannot aid in selecting an attorney or agent.

As to requirement (3), petitioner's showing is not adequate to excuse the continued delay in filing a reply. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A showing of medical incapacitation may meet the burden of establishing that the delay was "unavoidable." A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such a nature and degree as to render petitioner unable to conduct business (e.g., draft and submit issue fee payment to the Office) during the relevant period. Such a showing should be supported by a statement from petitioner's treating physician, and such statement should

provide the nature and degree of petitioner's incapacitation during the relevant period.

Petitioner argues that the delay in filing a proper reply to the Office action mailed July 6, 2005, advising applicant that their response to the Office action mailed April 6, 2005 was insufficient, was unavoidable. Specifically, petitioner attributes their delay to a "disabling injury to their right knee in April of 2005," stating that they were physically and financially disabled. In support thereof, petitioner submits 1) pre-operative Patient Instructions for surgery of May 26, 2005, 2) a doctor's home care instructions following lower extremity dated May 26, 2005, 3) a illustrative drawing by the physician of petitioner's knee injury, and 4) a $505.21 bill for the medical services.

Petitioner filed a response on May 31, 2005. By Office actions mailed April 6, 2005 and July 6, 2005, applicant was advised of the deficiencies in the response. A one-month time limit (from the mailing date of the Office action mailed April 6, 2005) for response was set, with extensions of time obtainable under §1.136(a). Thus, petitioner had from April 6, 2005 to October 6, 2005 (with extensions of time) to file a reply, curing the deficiency in the prior response.

Petitioner's arguments and evidence are not adequate to support a conclusion that applicant was under such a medical incapacitation and/or financial hardship that failure to file a response prior to October 6, 2005 should be excused as unavoidable. The evidence is not adequate to support a conclusion that the knee injury was of such a severity to prevent applicant from replying to the Office action. Neither the physician's comments nor the treatment plan support a conclusion that petitioner was incapacitated from responding to the Office action from April 6, 2005 through October 6, 2005. The medical evidence does not indicate long-term hospitalization. Nor does the evidence show that the physician imposed such limitations on petitioner's activities that he could not conduct business during the relevant period.

Moreover, the single bill submitted does not evidence financial hardship. In any event, filing of a response does not necessitate payment of a fee. It is recognized that petitioner may be arguing that he was in no financial position to hire an attorney or agent to help him prepare a proper response.

Nonetheless, petitioner states that he now stands ready with his attorney to continue the application process. It is unclear when petitioner became financially able to retain an attorney. Thus, it is concluded that petitioner has not made a showing of unavoidable delay, based on medical incapacitation and/or financial hardship.

Petitioner is not precluded from filing a petition pursuant to 37 CFR 1.137(b), which provides, in pertinent part, that:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

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

No terminal disclaimer is required on petition under § 1.137(b). However, the petition does require a proper reply, payment of the petition fee and a statement that the entire delay in filing a response was unintentional.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

JOE J. DOMINGUEZ
3342 CRESTDALE DR.
HOUSTON, TX 77080

COPY MAILED
OCT 30 2006
OFFICE OF PETITIONS

In re Application of	:	
Joe Dominguez	:	DECISION ON
Application No. 10/195,153	:	PETITION
Filed: July 16, 2002	:	
Title: DRINK CADDY	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed July 14, 2006.

The petition under § 1.137(b) is **DISMISSED** without consideration on the merits.

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

The above-identified application became abandoned for failure to file a timely reply to the Office action mailed July 6, 2005.

By decision mailed December 14, 2005, an initial petition under § 1.137(a) was dismissed without consideration on the merits for failure to include payment of the required petition fee.

By decision mailed June 14, 2006, the renewed petition under § 1.137(a) was dismissed for failure to make an adequate showing of unavoidable delay. The petition did not include a showing to

the satisfaction of the Director that the circumstances of the delay, applicant's knee injury and financial hardship, were such that the delay should be considered unavoidable. In addition, no reply to the Office action accompanied the petition.

As applicant was previously advised, 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally or unavoidably abandoned application must be accompanied by the petition fee. Further, payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. In addition, the Office: (A) will not refund the petition fee, regardless of whether the petition under 37 C.F.R. § 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee. In other words, applicant must pay the petition fee before the Office will consider the petition to revive and whether the petition is granted or dismissed the fee will not be refunded.

As no payment was enclosed, the petitions must be dismissed without consideration on the merits under § 1.137(b). The fee is currently $750 for a petition under § 1.137(b).

Petitioner still has not submitted a response to the Office action mailed July 6, 2005.

Payment of the petition fee and a response to the Office action mailed July 6, 2005 are both required to revive this application.

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

By mail: Mail Stop Petition
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Nancy Johnson
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Office of Petitions

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HOUSTON, TX 77080

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Joe Dominguez	:	DECISION ON
Application No. 10/195,153	:	PETITION
Filed: July 16, 2002	:	
Title: DRINK CADDY	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed January 3, 2007

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to the Office action mailed July 6, 2005.

By decision mailed December 14, 2005, an initial petition under § 1.137(a) was dismissed without consideration on the merits for failure to include payment of the required petition fee.

By decision mailed June 14, 2006, the renewed petition under § 1.137(a) was dismissed for failure to make an adequate showing of unavoidable delay. The petition did not include a showing to the satisfaction of the Director that the circumstances of the delay, applicant's knee injury and financial hardship, were such that the delay should be considered unavoidable. In addition, no reply to the Office action accompanied the petition.

By decision mailed October 30, 2006, the initial petition under 1.137(b) based on unintentional delay was dismissed without consideration on the merits. The petition did not include the

required $750 petition fee. In addition, petitioner was reminded that he still had not submitted a response to the Office action mailed July 6, 2005.

On instant renewed petition under 37 CFR 1.137(b), applicant has submitted a reply to the Office communication mailed July 6, 2005; payment of the petition fee; and the required statement of unintentional delay. Petitioner has now met all requirements for revival of this application.

Technology Center AU 3727 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for action on the responses (to the Office communication of July 6, 2005) submitted on renewed petition filed January 3, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOE J. DOMINGUEZ
7902 WINDY CREEK DRIVE
HOUSTON TX 77040

COPY MAILED
SEP 15 2008

In re Application of
Joe Dominguez
Application No. 10/195,153
Filed: July 16, 2002
Title: Drink Caddy

ON PETITION

This is a decision on the petition, filed March 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a reply to a Notice of Non-Compliant Amendment mailed on July 20, 2007. The Notice of Non-Compliant Amendment set an extendable one month period of reply. A reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on August 21, 2007. A Notice of Abandonment was mailed on March 7, 2008.

Petitioner contends the holding of abandonment should be withdrawn because petitioner replied to the Notice on August 20, 2007. In support petitioner has provided a copy of a US Postal sales receipt (priority mail) and a copy of the response including drawings and claims. Petitioner has also provided track and confirm for the correspondence sent via priority mail.

Petitioner's evidence has been considered but deemed to be unpersuasive. Petitioner

has submitted a copy of the reply to the Notice of Non-Compliant Amendment. It is noted the copy of the reply does not contain a certificate of mailing, pursuant to 37 CFR 1.8.[1] Further review of the record shows that neither a post card receipt within the meaning of MPEP 503[2] nor express mail label[3] were supplied as evidence to establish

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[1] 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.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[2] The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will no serve as prima facie evidence of receipt of those items.

[3] Pursuant to 37 CFR 1.10:
(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

the response was timely submitted. See 37 CFR 1.10 and MPEP 503. The Office recognizes mail sent via first class mail with the use of a certificate of mailing and mail sent via express mail.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), $770.00 for a small entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $770.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent

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Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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 Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

JOE J. DOMINGUEZ
7902 WINDY CREEK DRIVE
HOUSTON TX 77040

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DEC 15 2008

In re Application of	:	
Dominguez	:	
Application No. 10/195,153	:	DECISION ON PETITION
Filed: July 16, 2002	:	
For: Drink Caddy	:	

This is a decision on the petition filed in the above-identified application on October 22, 2008.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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-

Charlema Grant

Charlema 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

JOE J. DOMINGUEZ
7902 WINDY CREEK DRIVE
HOUSTON TX 77040

COPY MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Application of
DOMINGUEZ
Application No. 10/195,153
Filed: July 16, 2002
Title: Drink Caddy

DECISION ON PETITION

This is a decision on the petition, filed January 12, 2009, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a Notice of Non-Complaint Amendment, which was mailed on July 20, 2007. The Notice of Non-Complaint Amendment set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on August 20, 2007.

Petitioner states that a timely reply was mailed, which included the following papers: drawings and amendment. Petitioner has submitted a copy of the previously mailed correspondence and evidence of the previous submission of the reply on August 20, 2007. The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Non-Complaint Amendment of July 20, 2007 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed received on August 20, 2007.

It should be noted that this petition decision does not address the sufficiency of the reply submitted; the examiner will make such determinations.

This application is being referred to Technology Center AU 3782 for appropriate action in the normal course of business on the reply received with petition.

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

Charlema 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

Mark E. McBurney
International Business Machines Corporation
Intl Prop Law Dept., Internal Zip 4054
11400 Burnet Road
Austin, TX 78758

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OCT 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Susanne Marie Keohane, et. al.	:	
Application No. 10/195,190	:	ON PETITION
Filed: July 11, 2002	:	
Attorney Docket No. AUS920020284US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 8, 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 March 20, 2006. A Notice of Abandonment was mailed on July 31, 2006.

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

The Office also acknowledges receipt of a Terminal Disclaimer and fee of $130 filed on August 8, 2006. 37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since this application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer is unnecessary and the fee of $130 will be refunded to petitioner's deposit account.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 20 2007

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of	:	
NOLL et al	:	
Application No.: 10/195,220	:	DECISION ON PETITION
Filing Date: July 15, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: SWR-0086	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 Notice of Allowability mailed October 17, 2006, which set a three month statutory period for response. Accordingly, by operation of law, the above-identified application became abandoned on January 18, 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. Specifically, the corrected drawings filed with the petition are improper. See the attached Notice of Draftsperson's Patent Drawing Review (Form PTO-948).

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 Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review (Form PTO-948)

Form PTO-948 (Rev. 06/03) 10/497425
Application No.

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 5/28/2004 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(c)

___ 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)___

• change digit "7" to "7" (Figs 3, 2, 4-14)

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) 1-14

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) 1-14

✓ Figure legends are poor. Fig(s) 1-14

___ 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:
• sectional line "E-E" of Figs 12 & 14 not mentioned in specs? If not, delete them —

Reviewer WJS.
If you have questions, call (703) 305-8404.

Date 6/25/07
Attachment to Paper No.

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

22 DEC 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of	:	
NOLL et al	:	
Application No.: 10/195,220	:	DECISION ON PETITION
Filing Date: July 15, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: SWR-0086	:	

The decision mailed 20 July 2007 contained an erroneous attachment and is hereby **VACATED**.

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 Notice of Allowability mailed October 17, 2006, which set a three month statutory period for response. Accordingly, by operation of law, the above-identified application became abandoned on January 18, 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. Specifically, the corrected drawings filed with the petition are improper. See the attached Notice of Draftsperson's Patent Drawing Review (Form PTO-948).

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 Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration / Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review (Form PTO-948)

Form PTO-948 (Rev. 06/03)
Application No. 10/195220

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 7-15 are:

A. ____ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. X 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)

X Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) 1-7

11. SHADING. 37 CFR 1.84(m)

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X 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)____

X Figure legends are poor. Fig(s) 1-7

___ 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: Obj 7

Reviewer [signature]

If you have questions, call (703) 305-8404.

Date 9/13/07

Attachment to Paper No. ____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

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SEP 10 2009

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of	:	
NOLL et al	:	
Application No.: 10/195,220	:	DECISION ON PETITION
Filing Date: July 15, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: SWR-0086	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 7, 2009 to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed October 17, 2006. Accordingly, by operation of law, the above-identified application became abandoned on January 18, 2007.

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

This application is being referred to Technology Center AU 3677 for consideration of the response filed January 7, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration / Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2005

TO SPE OF : ART UNIT 2841

application # 10/195,223

SUBJECT : Request for Certificate of Correction on Patent No.: 6,940,024

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:

IB Patel
AU: 2841

SPE _____ **Art Unit** _____

OIPE IAP8 OCT 17 2005 PATENT & TRADEMARK OFFICE

C gC

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

10/13/05
(Date of Deposit)

Anthony P. Curtis, Ph.D., Reg. No. 46,193
Name of applicant, assignee, or Registered Representative

Signature

10/13/05
Date of Signature

Certificate
OCT 19 2005
of Correction

Our File No. 9281-4378

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Yasushi Watanabe	
Patent No.: 6,940,024 B2	Examiner: Ishwarbhai Patel
Issue Date: September 6, 2005	Group Art Unit: 2841
Serial No.: 10/195,223	
Filing Date: July 15, 2002	
For: PRINTED WIRING BOARD HAVING WIRING PATTERNS AND CONNECTION TERMINALS	

REQUEST FOR CERTIFICATE OF CORRECTION

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

Attn: Certificate of Corrections Branch

Sir:

Please issue a Certificate of Correction for the above-identified patent to correct the errors listed on the accompanying PTO Form 1050. This request is being made pursuant to 35 U.S.C. § 254, since the errors comprise minor or typographical errors by the Patent and Trademark Office.

OCT 21 2005

The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Anthony P. Curtis, Ph.D.
Registration No. 46,193
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610
(312) 321-4200

OCT 2 1 2005

OIPE IAP8
OCT 17 2005
PATENT & TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

10/13/05
(Date of Deposit)

Anthony P. Curtis, Ph.D., Reg. No. 46,193
Name of applicant, assignee, or Registered Representative

Signature

10/13/05
Date of Signature

Our File No. 9281-4378

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Yasushi Watanabe	
Patent No.: 6,940,024 B2	Examiner: Ishwarbhai Patel
Issue Date: September 6, 2005	Group Art Unit: 2841
Serial No.: 10/195,223	
Filing Date: July 15, 2002	
For: PRINTED WIRING BOARD HAVING WIRING PATTERNS AND CONNECTION TERMINALS	

REQUEST FOR CERTIFICATE OF CORRECTION

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

Attn: Certificate of Corrections Branch

Sir:

Please issue a Certificate of Correction for the above-identified patent to correct the errors listed on the accompanying PTO Form 1050. This request is being made pursuant to 35 U.S.C. § 254, since the errors comprise minor or typographical errors by the Patent and Trademark Office.

OCT 21 2005

The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Anthony P. Curtis, Ph.D.
Registration No. 46,193
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610
(312) 321-4200

OCT 2 1 2005

PTO/SB/44(07-03)
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 : 6,940,024 B2

APPLICATION NO. : 10/195,223

ISSUE DATE : September 6, 2005

INVENTOR(S) : Yasushi Watanabe

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

In the Claims

In column 10, line 28, after "formed on" insert --the surface of--.

In column 10, line 39, after "the first" delete "bind" and substitute --binder-- in its place.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Anthony P. Curtis, Ph.D.
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610

PATENT NO. 6,940,024 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

OCT 21 2005

PTO/SB/44(07-03)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,940,024 B2
APPLICATION NO. : 10/195,223
ISSUE DATE : September 6, 2005
INVENTOR(S) : Yasushi Watanabe

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

In the Claims

In column 10, line 28, after "formed on" insert --the surface of--.

In column 10, line 39, after "the first" delete "bind" and substitute --binder-- in its place.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Anthony P. Curtis, Ph.D.
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610

PATENT NO. 6,940,024 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

OCT. 21 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2005

application # 10/195,223

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction on Patent No.: 6,940,024

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.

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

Comments:

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE **Art Unit**

Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

10/13/05
(Date of Deposit)

Anthony P. Curtis, Ph.D., Reg. No. 46,193
Name of applicant, assignee, or
Registered Representative

Signature

10/13/05
Date of Signature

Certificate
OCT 19 2005
of Correction

Our File No. 9281-4378

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Yasushi Watanabe	
Patent No.: 6,940,024 B2	Examiner: Ishwarbhai Patel
Issue Date: September 6, 2005	Group Art Unit: 2841
Serial No.: 10/195,223	
Filing Date: July 15, 2002	
For: PRINTED WIRING BOARD HAVING WIRING PATTERNS AND CONNECTION TERMINALS	

Correction approved
I.B. Patel
1-31-06

REQUEST FOR CERTIFICATE OF CORRECTION

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

Attn: Certificate of Corrections Branch

Sir:

Please issue a Certificate of Correction for the above-identified patent to correct the errors listed on the accompanying PTO Form 1050. This request is being made pursuant to 35 U.S.C. § 254, since the errors comprise minor or typographical errors by the Patent and Trademark Office.

OCT 21 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application :
Nonaka :
Application No. 10/195,224 : PATENT TERM ADJUSTMENT
Filed: July 15, 2002 :
Dkt. No.: 9281-4366 :

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER," filed May 23, 2005. This request is being 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 **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 138 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals that an adjustment of 88 days under 37 CFR 1.702(a)(1) was attributable to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began September 16, 2003, the day after the date that is fourteen months after the date on which the application was filed, and ended December 12, 2003, the date the non-final Office action was mailed.

A further adjustment of 55 days in accordance with 37 CFR 1.702(a)(2) can be attributed to the Office. In accordance with 37 CRF 1.703(a)(2), the adjustment began July 16, 2004, the day after the date that is four months after the date that a response to the non-final Office action was filed, and ended September 8, 2004, the date a second non-final Office action was mailed.

The Office errantly entered June 16, 2004 as the date a reply to the non-final Office action mailed December 12, 2003 was filed rather than March 15, 2004, the date the response was in fact

received as evidenced by the copy of the stamped and dated postcard receipt submitted with the instant application.

Accordingly, the period of adjustment under 37 CFR 1.702 is reduced three days, rather than the previous determination of 96 days, in accordance with 37 CFR 1.704(b). The reduction began March 13, 2004, the day after the date that is three months after the date of mailing of the first non-final Office action, and ended March 15, 2004, the date a response was filed.

The period of adjustment under 37 CFR 1.702 is further reduced two days in accordance with 37 CFR 1.704(b). The delay began December 8, 2004, the day after the date that is three months after the date of mailing of the second non-final Office action, and ended December 10, 2004, the date a response was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 138 days as argued by applicant.

Applicant has also anticipated additional adjustment under 37 CFR 1.703(b). Applicants are advised that at the time the issuance date is set by the Office of Patent Publications, the PTA will be routinely recalculated, including adjustments relative to 37 CFR 1.703(b). Applicant is advised that any request for reconsideration relative to 37 CFR 1.703(b) is properly raised within two months of issuance of the patent in accordance with 37 CFR 1.705(d).

The Office acknowledges receipt of the required $200.00 application fee submitted herewith.

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

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

Karin Ferriter

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

Enclosure: Copy of Adjustment PAIR Calculation

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MAR 06 2007

OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Patent No. 6,978,320 :
Issued: December 20, 2005 : DECISION ON APPLICATION FOR
Application No. 10/195,224 : PTA and NOTICE OF INTENT
Filed: July 15, 2002 : TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: 9281-4366 : CORRECTION

This decision is in response to the "REPETITION FOR RECONSIDERATION OF PATENT TERM," filed January 17, 2006. This request is being considered under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,978,320 on December 20, 2005. The instant request for reconsideration of the decision mailed May 23, 2005 was filed January 17, 2006. The patent issued with a PTA of 211 days. Applicants argue that the adjustment was improperly reduced an additional two days.

A review of the application history reveals that an overall adjustment of 218 days can be attributed to the Office. As previously indicated in the decision mailed October 31, 2005, an adjustment of 88 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and an adjustment of 55 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). A further adjustment of 75 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 totaling 218 days is properly reduced a total of five days for applicant's failure to engage in reasonable efforts to conclude prosecution. As previously indicated in the decision mailed October 31, 2005, an reduction of three days can be attributed to applicants in accordance with 37 CFR 1.704(b) in connection with the reply submitted March 15, 2004 and a further reduction of two days can be attributed to applicants in accordance with 37 CFR 1.704(b) in connection with the reply submitted December 10, 2004.

Accordingly, the patent is entitled to an adjustment of 213 days as argued by patentees (218 days - 5 days = 213 days).

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 213 days.

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

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,978,320 B2
DATED	:	December 20, 2005
INVENTOR(S)	:	Nonaka

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 211 days

Delete the phrase "by 211 days" and insert – by 213 days--

PALM INTRANET

Day : Monday
Date: 3/5/2007
Time: 13:58:52

PTA Calculations for Application: 10/195224

Application Filing Date:	07/15/2002	PTO Delay (PTO):	163
Issue Date of Patent:	12/20/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	213
PTO Delay Adjustment:	148		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	10/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
39.5	11/30/2005	PTA 36 MONTHS			
39	12/20/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	75		35
38	11/16/2005	RECEIPT INTO PUBS			
37	11/15/2005	DISPATCH TO FDC			
36	11/15/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	06/06/2005	ISSUE FEE PAYMENT VERIFIED			
34	11/02/2005	RECEIPT INTO PUBS			
33	10/31/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
33	10/31/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
32	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	55		
32	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
31	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		5	
31	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
30	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	96		
30	09/21/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
28	08/23/2005	RECEIPT INTO PUBS			
27	06/06/2005	ISSUE FEE PAYMENT RECEIVED			
26	05/23/2005	PETITION ENTERED			
25	04/20/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
24	03/28/2005	EXPORT TO INITIAL DATA CAPTURE			
23	03/21/2005	MAIL NOTICE OF ALLOWANCE			

22	03/19/2005	ISSUE REVISION COMPLETED			
21	03/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
~ 20	03/07/2005	NOTICE OF ALLOWABILITY			
19	12/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	12/20/2004	DATE FORWARDED TO EXAMINER			
17	12/10/2004	RESPONSE AFTER NON-FINAL ACTION		2	15
16	12/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	09/08/2004	MAIL NON-FINAL REJECTION			
14	09/07/2004	NON-FINAL REJECTION			
13	06/30/2004	DATE FORWARDED TO EXAMINER			
12	06/16/2004	RESPONSE AFTER NON-FINAL ACTION		96	10
11	06/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
10	12/12/2003	MAIL NON-FINAL REJECTION	88		-1
9	12/10/2003	NON-FINAL REJECTION			
8	10/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	07/15/2002	PRELIMINARY AMENDMENT			
6	07/15/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
5	10/29/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	08/16/2002	APPLICATION DISPATCHED FROM OIPE			
3	08/14/2002	APPLICATION IS NOW COMPLETE			
2	07/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/15/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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John Pietrangelo, Patent Agent
Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany NY 12203

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DEC 2 3 2002

OFFICE OF PETITIONS

In re Application of
Prough et al.
Filed: July 15, 2002
Application No. 10/195,230
Attorney Docket No. 2065.005A
For: SYSTEM AND METHOD FOR IMPROVING THE MOVEMENT AND DISCHARGE OF MATERIAL FROM VESSELS

~~In re Application of
Prough et al.
Filed: July 16, 2002
Application No. 10/042,718
Attorney Docket No. 2065.005A
For: SYSTEM AND METHOD FOR IMPROVING THE MOVEMENT AND DISCHARGE OF MATERIAL FROM VESSELS~~

DECISION GRANTING PETITION

This is a decision on the petition filed November 19, 2002, requesting that the specification including claims and drawings submitted to Licensing and Review (L & R) on July 16, 2002, and granted foreign filing license No. 599,211 on July 17, 2002, be assigned a new application number and accorded a filing date of July 16, 2002. This petition is properly being treated as a petition

On September 24, 2002, petitioners submitted a petition under 37 CFR 1.53(e), alleging that application No. 10/195,230 contained the wrong specification and requesting that the "correct" specification be entered and accorded the filing date of July 15, 2002.

On November 1, 2002, in response to a telephone conversation with Terry J. Dey of the Office of Patent Legal Administration, petitioners submitted a letter confirming that the subject application was submitted to Licensing and Review on July 16, 2002, and was granted foreign filing license No. 599,211.

On November 15, 2002, in a telephone conversation with Ms. Dey and Fred A. Silverberg of the Office of Patent Legal Administration, petitioners were informed that the Office would be willing to consider a new petition requesting that the documents submitted to Licensing and Review on July 16, 2002, be treated as new application papers and accorded a filing date of July 16, 2002.

On November 19, 2002, the present petition was filed. Petitioners request that the specification including claims and drawings submitted to Licensing and Review on July 16, 2002, be assigned a new application number and accorded a filing date of July 16, 2002.

A review of the papers submitted to Licensing and Review on July 16, 2002, reveals that a thirty-three (33) page specification including claims, titled "System and Method for Improving the Movement and Discharge of Material From Vessels," three sheets of drawings, and a copy of a declaration were received.

Since the papers submitted to the Office on July 16, 2002 are complete for filing date purposes, on petition, these papers will be treated as a new application and accorded a filing date of July 16, 2002.

Accordingly, the petition is <u>granted</u>.

The application papers have been assigned application No. 10/042,718 and accorded a filing date of July 16, 2002. All future correspondence concerning this application should be directed to this application number.

Since the original application papers submitted to Licensing and Review have been placed in application No. 10/042,718, copies of these application papers will be retained in Licensing and Review with the Petition for Expedited Foreign Filing License.

Filing fees in the amount of $799.00 will be charged to deposit account No. 08-1935. The

[illegible] Office of Patent Legal Administration to await receipt of a letter withdrawing the petition filed September 24.

2002 in application No. 10/195,230, as indicated in the November 19, 2002 petition. Application No. 10/042,718 will be forwarded to the Office of Initial Patent Examination (OIPE) for processing with a filing date of July 16, 2002, using the application papers submitted on that date.

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

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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MAIL

Paper No. 4

SEP 1 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Anthony Kurtz

Application No. 10/195255
Filed: July 15, 2002
For: IDENTIFICATION AND INDIVIDUAL RECOGNITION SYSTEM

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 August 2, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents listed in the request are withdrawn.

The file is being returned to TC 2600 Central files to await action in appropriate turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Plevy & Howard
600 North Easton Road
Willow Grove, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 14 2006

OFFICE OF PETITIONS

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

In re Application of	:
Kurtz	: DECISION ON PETITION
Application No. 10/195,255	:
Filed: July 15, 2002	:
Atty. Dkt. No.: Kulite-73	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 12, 2005 for failure to timely reply to the non-final Office action mailed August 11, 2005. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed April 5, 2006.

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

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

This application will be forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of
Anthony D. Kurtz
Application No. 10/195,255
Filed: July 15, 2002
Attorney Docket No. KULITE-73

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 10, 2008 and February 29, 2008

The request is **APPROVED**.

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

The requests were signed by Edward J. Howard, on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

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. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

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

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Anthony D. Kurtz
256 Hempstead Road
Ridgewood, NJ 07450

cc: The Plevy Firm
10 Rutgers Place
Trenton, NJ 08618

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/195,255	07/15/2002	Anthony D. Kurtz	

CONFIRMATION NO. 7602

POWER OF ATTORNEY NOTICE

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

OC000000028723235

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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MAR 17 2008
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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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MAR 10 2008
OFFICE OF PETITIONS

In re Application of
Anthony D. Kurtz
Application No. 10/195,255
Filed: July 15, 2002
Attorney Docket No. KULITE-73

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 10, 2008 and February 29, 2008

The request is **APPROVED**.

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

The requests were signed by Edward J. Howard, on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

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. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

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

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Anthony D. Kurtz
256 Hempstead Road
Ridgewood, NJ 07450

cc: The Plevy Firm
10 Rutgers Place.
Trenton, NJ 08618

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/195,255	07/15/2002	Anthony D. Kurtz	

CONFIRMATION NO. 7602

POWER OF ATTORNEY NOTICE

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

OC000000028723235

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Warterbury, et al. :
Application No. 10/195,309 :
Application Filing Date: July 16, 2002 :
Attorney Docket No. 1770-309US JA/JR/mb

DECISION ON PETITION UNDER
37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(f), filed April 13,2006, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

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[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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to the Technology Center 1700, GAU 1743 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Communication Regarding Recession of Nonpublication Request and/or Notice of Foreign Filing.

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/195316

DATE : 2-1-06

Paper No.: _____

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction on Patent No.: 6793912

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

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

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

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

Comments:

SPE

1618
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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JUN 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Thierry Pascal	:	
Application No. 10/195,329	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. ATOCM-282	:	

This is a decision on the petition, filed June 22, 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 5, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1713 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of
Douglas Alston
Application No. 10/195,346
Filed: July 15, 2002
Attorney Docket No.
60027.0265US01/BS02192

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of June 27, 2006 is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

10195364

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/1/05

Paper No.: _____

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6822808

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

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

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

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

Comments:

SPE

2873
Art Unit

PTOL-306 (REV. 7/03)

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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of
Sharam Alavian
Application No. 10/195,404
Filed: July 16, 2002
Title of Invention: FINANCIAL DERIVATIVE AND DERIVATIVE EXCHANGE WITH GUARANTEED SETTLEMENT

DECISION ON PETITION

This is a decision on the petition filed November 18, 2007 to withdraw the holding of abandonment of the above-identified application, which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned on July 16, 2007, for failure to file a timely response to the Office Communication mailed June 15, 2007 which set the longer of one month or 30 days for reply. Accordingly, a Notice of Abandonment was mailed October 9, 2007.

Petitioner argues that the period for response with extensions of time pursuant to 37 CFR 1.136(a) has not lapsed and thus the Abandonment and Notice of Abandonment are premature.

Under the provisions of 37 CFR 1.136(a), an extension of time up to five months could be obtained making the response due date not later than December 15, 2007 as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

The instant petition includes an Election to the Restriction Requirement and a five month extension of time. In view thereof, the response is timely filed and the Notice of Abandonment was sent in error and is hereby withdrawn. No fee for the petition to withdraw the holding of abandonment is due and none has been charged.

This application is being forwarded to Technology Center 3694 for review of the response filed November 18, 2007.

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

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DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge VA 22192

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JUN 25 2003

OFFICE OF PETITIONS

In re Application of
Eveland, et al.
Application No. 10/195,447
Filed: July 16, 2002
Attorney Docket No. EVE001-205
FOR: KID'S ZONE COMPARTMENT ASSEMBLY FOR A REFRIGERATOR

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed June 13, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit an executed oath or declaration and surcharge for its late filing, in reply to the Notice to File Missing Parts of Nonprovisional Application, mailed August 13, 2002, which set an extendable period for reply of two (2) months. No extensions of time under 37 CFR 1.136 being obtained, this application became abandoned on October 14, 2002 for failure to reply. Applicants' petition to revive under 37 CFR 1.137(a), filed April 14, 2003, was dismissed on May 19, 2003 for failure to show the entire delay in replying to the August 13, 2002 Notice was unavoidable. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners have provided adequate evidence to show that the delay in replying to the August 13, 2002 Notice was unavoidable. Practitioner states that he searched the records of his office, including the docket and file jacket. Practitioner has provided a copy of mail logs from August 12, 2002 through August 20, 2002, a computer print out from the electronic docketing system, and a copy of the manual docket where the August 13, 2002 Notice would have been entered had it been received. There is no mention of the August 13, 2002 Notice. The evidence is persuasive that the delay in responding to the August 13, 2002 was unavoidable.

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

The application will be returned to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

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12471 Dillingham Square, #301
Woodbridge VA 22192

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Eveland, et al.
Application No. 10/195,447
Filed: July 16, 2002
Attorney Docket No. EVE001-205
FOR: KID'S ZONE COMPARTMENT ASSEMBLY FOR A REFRIGERATOR

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 14, 2003, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to timely submit an executed oath or declaration and surcharge for its late filing, in reply to the Notice to File Missing Parts of Nonprovisional Application, mailed August 13, 2002, which set an extendable period for reply of two (2) months. No extensions of time under 37 CFR 1.136 being obtained, his application became abandoned on October 14, 2002 for failure to reply. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that they did not receive the August 13, 2002 Notice.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a 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).

A review of the record indicates no irregularity in the mailing of the August 13, 2002 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioners have not provided the Office with any evidence of nonreceipt.

The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
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).

ALTERNATIVE VENUE

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

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

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosures: blank PTO/SB/64-- PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Privacy Act Statement

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Suite 4900
P.O. Box 190
66 Wellington St. W.
Toronto ON M5K 1H6
CANADA

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AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Trudel et al.	:	
Application No. 10/195,448	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. T-00430-0011	:	

This is a decision on the petition under 37 CFR 1.137(a), filed July 11, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 15, 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 16, 2002.

Petitioner alleges non-receipt of the Notice mailed on August 15, 2002. A review of the petition indicates the address on the petition differs from the address of record. The Notice was mailed to the address of record. If the Notice was not received due to a failure by petitioner to timely file a request to change the correspondence address, then the petition under 37 CFR 1.137(a) cannot be granted. Petitioner should discuss the correct mailing address for petitioner during August and September of 2002.

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

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
Petitions Attorney
Office of Petitions

cc: McCarthy Tétrault LLP
Suite 4700, P.O. Box 48
66 Wellington St. W.
Toronto Dominion Bank Tower
Toronto Dominion Centre
Toronto, ON M6K 1E6
CANADA

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Paper No. 8

MCCARTHY TETRAULT LLP
SUITE 4900, P.O. BOX 48
66 WELLINGTON ST. WEST
TORONTO, ONTARIO M5K 1E6
CANADA

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DEC 16 2003

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Trudel et al.	:	
Application No. 10/195,448	:	
Filed: July 16, 2002	:	
Attorney Docket No. T-00430-0011	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed December 8, 2003, to revive the above-identified application.

The petition is **granted**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 15, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was deemed abandoned on October 16, 2002.

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.

The file is now being forwarded to Publications Branch, Pre-Grant Publication Division, to consider the Rescission of Previous Nonpublication Request filed on July 11, 2003. The file will thereafter be forwarded to the Office of Initial Patent Examination for further processing.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

- 9 APR 2010

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of: LAVIE, Peretz, et al. U.S. Application No.: 10/195,464 Filing Date: July 16, 2002 Attorney Docket No.: 02/23910 For: METHOD AND APPARATUS FOR THE NON-INVASIVE DETECTION OF PARTICULAR SLEEP-STATE CONDITIONS BY MONITORING THE PERIPHERAL VASCULAR SYSTEM	DECISION ON PETITION (37 CFR 1.182 and 1.78(a)(3) and 1.78(a)(6))

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Reinstate Notice Of Allowance And Petition Under 37 CFR 1.78(A)(iii)(3) To Accept An Unintentionally Delayed Claim Under 35 U.S.C. 120" filed August 03, 2009, treated herein under 37 CFR 1.182 and 1.78(a)(3) and (a)(6). Deposit Account No. 50-1407 will be charged the required petition fees.[1]

BACKGROUND

On March 01, 2001, applicants filed international application PCT/IL01/00199. The international application claimed a priority date of March 02, 2000, and it designated the United States. On September 07, 2001, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for requesting entry into the U.S. national phase and payment of the basic national fee was thirty months from the priority date, i.e., September 02, 2002.

On July 16, 2002, applicants filed the present application in the USPTO. The first sentences of the specification identify the application as follows:

> This application is the U.S. National Entry of International Application PCT/IL01/00199 filed March 1, 2001, published as WO 01/64101 on September 7, 2001. This application also includes subject matter, and also claims the priority dates, of U.S. Provisional Applications 60/305,197 filed July 16, 2001, and U.S. Provisional Application 60/368,136 filed March 29, 2002, the

[1] The required petition fees are as follows: $1,410 for the petition under 37 CFR 1.78 and $400 for the petition under 37 CFR 1.182.

contents of which Provisional Applications are incorporated herein by reference in their entireties.

The application was processed as a U.S. application filed under 35 U.S.C. 111(a).

On 21 February 2003, applicants filed an amendment directed to the first sentence of the specification which again identifies the application as "the U.S. National Entry of International Application PCT/IL01/00199" but seeks to add to the specification priority references directed to three additional U.S. provisional applications: 60,240,079, filed October 16, 2000; 60/212,648, filed June 19, 2000; and 60/186,358, filed March 02, 2000.

On February 14, 2008, a "Notification Of Allowance And Fee(s) Due" (PTOL-85) was issued.

On May 12, 2008, applicants submitted payment of the issue and publication fees.

Because the instant application was neither processed as a national stage application under 35 U.S.C. 371 nor, if considered a filing under 35 U.S.C. 111(a), contained a proper benefit claim to the international application and all the listed provisional applications, a communication was mailed on 15 July 2009 indicating that the application had been withdrawn from issue to reopen prosecution.

On August 03, 2009, applicant filed the petitions considered herein. The petition under 35 U.S.C. 181 argues that the application is properly treated as a filing under 35 U.S.C. 111(a) and not as a U.S. national stage application. The petition under 37 CFR 1.78 seeks to add to the present application a proper claim of domestic priority under 35 U.S.C. 120 directed to PCT/IL01/00199, as well as benefit claims directed to U.S. provisional applications 60/240,079, 60/212,648, and 60/186,358.

DISCUSSION

1. Petition Under 37 CFR 1.181 (Treated Under 37 CFR 1.182)

Applicant argues that the present application should be treated as a filing under 35 U.S.C. 111(a) and not a U.S. national stage application filed under 35 U.S.C. 371. At issue is the aforementioned language contained in the first paragraph of the specification. Because it is clear that this language does not claim benefit to the international application under 35 U.S.C. 120 and 365(c), and because the language identifying the application as "the U.S. National Entry of International Application PCT/IL01/00199" is generally indicative of a national stage submission under 35 U.S.C. 371, the petition has been properly treated as a petition under 37 CFR 1.182. Deposit Account No. 50-1407 will be charged the required petition fee, as authorized in the petition.

Upon consideration of the totality of the record, the petition to treat the instant application as a filing under 35 U.S.C. 111(a) is **GRANTED.**

2. Petition Under 37 CFR 1.78(a)(3) and (a)(6)

37 CFR 1.78(a)(3) applies where an applicant seeks to add a late claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States; 37 CFR 1.78(a)(6) applies where an applicant seeks to add a late claim of priority to a prior-filed provisional application. Applicant here is seeking to add delayed priority claims to both an international application (PCT/IL01/00199) and three U.S. provisional applications (60/240,079, 60/212,648 and 60/186,358). Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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).

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

A 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(s), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The present petition fails to comply with items (1) and (3), above.

With respect to item (1), the present petition was accompanied by a proposed amendment to the first paragraph of the specification; however, the proposed amendment is not acceptable as drafted. Specifically, the amendment does not properly identify the relationship between the present application, the intermediate international application, and the three provisional applications to be added. See MPEP section 201.11(III)(C):

> The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a

> continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

The proposed amendment submitted here properly modifies the reference with respect to the international application, identifying the present application as a "Continuation-In-Part" of the international application, but it does not indicate that it is the intermediate international application, not the present application, that claims the benefit of U.S. provisional applications 60/240,079, 60/212,648, and 60/186,358 (the present application itself cannot directly claim "the priority dates" of these three provisional applications because such applications were filed more than one year prior to the filing date of the present application).

The proposed amendment is also unacceptable as drafted because it improperly incorporates by reference all the U.S. provisional applications referred to therein, including the three U.S. provisional applications that were not identified in the original specification. See MPEP section 201.06(c)(IV) (emphasis added):

> An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). **If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application.** See *Dart Indus. v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

In order to satisfy item (1) of a grantable petition under 37 CFR 1.78(a)(3) and (a)(6), a substitute amendment[1] that properly identifies the relationship between the listed applications, as discussed in the MPEP, and which does not include the incorporation by reference statement with respect to the three added U.S. provisional applications (60/240,079, 60/212,648, and 60/186,358) is required.

With respect to item (3), the present petition includes a statement that "the delay in filing this application from 16 November 2002 until the filing of this grantable Petition under 37 CFR 1.78(a)(iii)(3) was unintentional." However, the delay at issue is not the delay in filing the application, but rather the delay in filing the acceptable benefit claims. In order to satisfy item (3) of a grantable petition, applicants must provide the statement of unintentional delay specified in 37 CFR 1.78(a)(3) and (a)(6), that is, a statement that "the entire delay between the date the benefit claims were due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claims were filed was unintentional.

In view of the above, applicants have not satisfied the requirements for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) to add the delayed benefit claims directed to

---

1 *Note* 37 CFR 1.121

international application PCT/IL01/00199 and U.S. provisional applications 60/240,079, 60/212,648, and 60/186,358. The petition is therefore appropriately dismissed on the present record.

CONCLUSION

Applicants' petition under 37 CFR 1.182, is **GRANTED** to the extent that the present application will be treated as a U.S. non-provisional application filed on July 16, 2002 under 35 U.S.C. 111(a), rather than a U.S. national stage application under 35 U.S.C. 371.

For the reasons discussed above, applicants' petition under 37 CFR 1.78(a)(3) and (a)(6) is **DISMISSED** without prejudice.

Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6)" and must include the materials required to satisfy items (1) and (3) of a grantable petition, as discussed above and in the MPEP.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or by mail directed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Questions with respect to this decision may be directed to Attorney Advisor Richard M. Ross at (571) 272-3296.

The application is being forwarded to Technology Center Art unit 3735 for prosecution as deemed appropriate in light of this decision.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

2 7 APR 2010

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

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of: LAVIE, Peretz, et al. U.S. Application No.: 10/195,464 Filing Date: July 16, 2002 Attorney Docket No.: 02/23910 For: METHOD AND APPARATUS FOR THE NON-INVASIVE DETECTION OF PARTICULAR SLEEP-STATE CONDITIONS BY MONITORING THE PERIPHERAL VASCULAR SYSTEM	DECISION ON RENEWED PETITION (37 CFR 1.78(a)(3) and 1.78(a)(6))

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6)" filed April 19, 2010. No additional petition fee is required.

BACKGROUND

The procedural background for the present decision was set forth in the decision mailed on April 09, 2010. That decision granted applicants' petition under 37 CFR 1.182 to the extent that the it requested the present application to be treated as a U.S. application filed under 35 U.S.C. 111(a), but it dismissed applicant's petition under 37 CFR 1.78(a)(3) and (a)(6) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided: (a) the required reference to the prior-filed applications in the proper form; and (b) an acceptable statement of unintentional delay.

On April 19, 2010, applicants filed the "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6)" considered herein, with accompanying materials.

DISCUSSION

The renewed petition is accompanied by a revised amendment that includes a revised priority reference that properly identifies the relationship between the present application, the prior-filed international application, and the prior-filed provisional applications, satisfying the "required reference" reference element of a grantable petition. The renewed petition also includes a statement that "the entire delay between the date the benefit claims were due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claims were filed was unintentional," satisfying the final element of a grantable petition.

In view of the above, applicants have now satisfied the outstanding elements of a grantable petition under 37 CFR 1.78(a)(3) and (a)(6). The petition is therefore appropriately granted.

CONCLUSION

Based on the above, the petition under 37 CFR 1.78(a)(3) and (a)(6) to add the delayed claim of benefit to the international application PCT/IL01/00199, filed March 01, 2001, and to U.S. provisional applications 60/240,079, filed October 16, 2000, 60/212,648, filed June 19, 2000, and 60/186,358, filed March 02, 2000, 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 (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 application, all other requirements under 35 U.S.C. 120 and 119(e), and 37 CFR 1.78(a)(1), (a)(2)and (a)(5) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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

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

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Ando et al.
Application No. 10/195,474
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 9, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

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January 19, 2006

Christopher R. Glembocki
BANNER & WITCOFF, LTD
1001 G Street N. W. 11TH Fl
Washington, DC 20001

Patent No.: 6928535 B2
Application No.: 10/195477
Inventor(s): Hirofumi Yamashita, et al.
Issued: Aug. 9, 2005
Title: DATA INPUT/OUTPUT CONFIGURATION FOR TRANSFER AMONG PROCESSING ELEMENTS OF DIFFERENT PROCESSORS

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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DW Oct-06

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

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OFFICE OF PETITIONS

In re Patent No. 6,928,535	:	
Issued: 9 August, 2005	:	
Application No. 10/195,477	:	ON PETITION
Filed: 16 July, 2002	:	
Atty Dckt No. 001701.00157	:	

This is a decision on the petition filed on 10 January, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The duplicate processing fee submitted on 18 September, 2006, will be credited to counsel's deposit account.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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APR 07 2004

TECHNOLOGY CENTER 2100

Paper No. 4

Thomas L. Evans
BANNER & WITCOFF
Intellectual Property Law
602 S.W. Avenue
Suite 1900
Portland, Oregon 97204

In re Application of:	)	
Frank R. Chu	)	
Application No. 10/195,478	)	**DECISION ON REQUEST FOR**
Filed: July 16, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: INTELLIGENT DATA MANAGEMENT FOR HARD DISK DRIVE	)	

This is a decision on the Request To Withdraw from Representation filed August 25, 2003.

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

The request filed August 25, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

cc: IBM RESEARCH DIVISION
ALMADEN RESEARCH CENTER
650 Harry Road
San Jose, CA 95120-6099

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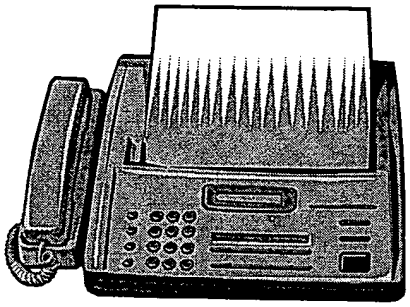

TELECOPY/FACSIMILE TRANSMISSION COVER SHEET

DATE: June 21, 2004

SERIAL #: 10/195478 Ref #:

TO: Mr. Thomas L. Evans
(NAME)
BANNER & WITCOFF
(COMPANY OR FIRM)
503-425-6801
(FAX NO.)
503-425-6800
(VOICE LINE NO.)

FROM: Vincent N. Trans
(NAME)
703-305-9750
(VOICE LINE NO.)

NUMBER OF PAGES 3 (including this page)

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JUL 19 2004

Paper No. 6

In re Application of
Min-Chou Lin
Application No. 10/195,502
Filed: July 16, 2002
Attorney Docket No. 33144-182463

DECISION ON PETITION

This is a decision on the petition filed on May 4, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the 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.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was in fact timely filed. Petitioner has supported this allegation by submitting a copy of the reply and a copy of a post card filing receipt for the reply showing that the reply was in fact received in the Office on December 4, 2003. As this date is within the period set by the Office letter in question for filing a reply thereto, it is evident 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 who will process the reply filed on December 4, 2003, and thereafter the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Venable, Baetjer, Howard and Civiletti, LLP
P.O. Box 34385
Washington, DC 20043-9998

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OFFICE OF PETITIONS

In re Application of	:
Geoffrey B. RHOADS	:
Application No. 10/195,515	: DECISION ON PETITION
Filed: July 16, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P0682	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. 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 2621 for appropriate action on the amendment filed September 6, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:
Qun Sun et al	:
Application No. 10/195,530	: DECISION GRANTING PETITION
Filed: July 16, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1861.1420001 JMC/RHD	:

This is a decision on the petition, filed October 17, 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 2, 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 1626 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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

Date: July 7, 2006
Application No. 10/195,530
Filed: July 16, 2002
Subject: **ARYL SUBSTITUTED THIAZOLIDINONES AND THE USE THEREOF**

ON PETITION
37 CFR 1.48(c)

Receipt is acknowledged of the petition filed January 17, 2006 under 37 CFR 1.48(c) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application names of inventors were omitted through error without any deceptive intention on the part of these inventors. Accordingly, this application has been changed by the **addition of Parviz Gharagozloo and Ji Yang.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Fiona T. Powers
FIONA T. POWERS
United States Patent and Trademark Office
Technology Center 1600
PRIMARY EXAMINER
ART UNIT 1626

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Paper No: __

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V7E42-9
CANADA

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of
Chih-Ching :
Application No. 10/195,537 :
Filing Date: 16 July, 2002
Attorney Docket No. (None) :

DECISION ON PETITION

This is a decision on the petition filed on 23 August, 2004, to revive the instant application 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 10 November, 2003, with reply due, absent extension of time on or before Monday, 12 February, 2004;
- the instant application went abandoned after midnight 12 February, 2004;
- Notice of Abandonment was mailed on 26 July, 2004;
- with the instant petition (and fee), Petitioner submitted the reply in the form of an amendment and made a showing of unavoidable delay.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

Allegations as to Unavoidable Delay

A grantable petition under 37 C.F.R. §1.137(a) requires a petition, fee, showing of unavoidable delay, reply, and a terminal disclaimer and fee if appropriate.

---

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

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

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

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

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

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

As indicated above, Petitioner now has satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 3700 for further processing.

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

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

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Paper No. 8

ExxonMobil Upstream Research Company
P.O. Box 2189
Houston, TX 77252-2189

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JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Marek K. Czernuszenko, et. al.
Application No. 10/195,582
Filed: July 15, 2002
Attorney Docket No. PM99.038A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 August 26, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight October 26, 2002.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $1,330 for the petition to revive fee, an oath/declaration, and $130 for the late filing of the oath/declaration. The above fees have been charged to petitioner's deposit account, as authorized in the instant petition.

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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P.O. Box 1450
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POWER SYSTEMS MANUFACTURING
1440 WEST INDIANTOWN ROAD
SUITE 200
JUPITER FL 33458

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JAN 19 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Peter STUTTAFORD et al.	:	
Application No. 10/195,615	:	
Filed: July 15, 2002	:	
Attorney Docket No. PSM-057	:	

This is a decision on the petition, filed June 1, 2004, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the non-final Office action mailed October 29, 2003. Applicant has: (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3746 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 10, 2010

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10195630
Patent No.: 6960328

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — Art Unit 1793

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OCT 24 2006

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:
Malaviya et al	:
Serial No.: 10/195,633	: PETITION DECISION
Filed: July 15, 2002	:
Attorney Docket No.: 265280-71207	:

This is a response to the petition under 37 CFR 1.59(b), filed June 29, 2006, to expunge information from the above identified application. The delay in acting on this petition is regretted, however it was only recently brought to the attention of the deciding authority.

Petitioner requests that a document cited June 29, 2006, as part of an Information Disclosure Statement be expunged from the record.

Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The proprietary material submitted is a reference to an unpublished document, which is listed on Form 1449 with other published (non-proprietary) documents. Applicants state that this information is confidential and was inadvertently submitted and request its return. Due to Office processing of documents received which are converted to images, unless clearly marked as confidential materials not to be scanned, the document has been imaged. However, the file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. As such, the document is considered expunged from the record. The original will not be returned to applicants. Please note that reference CR will remain as an entry on Form PTO 1449. The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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MAYTAG CORPORATION
LAW DEPARTMENT-PATENT SECTION
403 W. 4TH STREET NORTH
NEWTON, IA 50208

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OFFICE OF PETITIONS

In re Application of	:	
James H. Jenkins et al	:	
Application No. 10/195,659	:	DECISION GRANTING PETITION
Filed: July 15, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P05519US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 24, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2005. A Notice of Abandonment was mailed on August 30, 2005.

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

The Office charged duplicate petition and issue fees to petitioner's deposit account. Accordingly, these duplicate charges will be refunded to petitioner's deposit account in due course.

This matter is being referred to Publishing Division.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\195659.wpd

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Paper No. 12

STEPHEN H. CAGLE
HOWREY SIMON ARNOLD & WHITE
750 BERING DRIVE
HOUSTON, TX 77057

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MAY 25 2004

OFFICE OF PETITIONS

In re Application of :
Chi-Ming Wu :
Application No. 10/195,670 :
Filed: July 15, 2002 :
Attorney Docket No. 12801.120NPUS00 :
(TEXS:12 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 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 July 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 1, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of

agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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 submitted with the petition on May 17, 2004 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) 306-5685.

The application file is being forwarded to Technoloyg Center AU 2859.

Wan Laymon

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

cc: JOSETTA I. JONES
6001 BOLLINGER CANYON ROAD
SAN RAMON, CA 94583

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Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street
48th Floor
Los Angeles, CA 90071-1448

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JAN 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Maestro Alex Gregory	:	
Application No. 10/195,742	:	DECISION ON PETITION
Filed: July 15, 2002	:	TO WITHDRAW
Attorney Docket No. 09R4-101885	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2007.

The request is **APPROVED**.

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

The request was signed by James R. Brueggemann on behalf of all attorneys of record. All attorneys/agents have been withdrawn. N Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 17, 2007 that requires a reply from the applicant.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Maestro Alex Gregory**
4821 Lankershim Blvd.
Suite F
North Hollywood, CA 91601

cc: **Paul Woolnough**
PenFive Guitars, LLC
200 North Sepulveda Boulevard
Suite 2000, 2nd Floor
El Segundo, CA 90245

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/195,742	07/15/2002	Maestro Alex Gregory	09R4-101885

CONFIRMATION NO. 7179

POWER OF ATTORNEY NOTICE

30764
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

OC000000027594771

Date Mailed: 01/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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NOV 17 2003

Paper No. 4

In re Application of
Robert K. Dragoo *et al*
Application No. 10/195,743
Filed: July 15, 2002
Attorney Docket No. ITWO:0037/YOD

DECISION ON PETITION

This is a decision on the petition to make special filed on October 20, 2003. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3728, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Patent Examining Groups 3710 and 3720

Ralph A. Graham
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston TX 77269-2289

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INSULET CORPORATION
9 OAK PARK DRIVE
BEDFORD, MA 01730

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OFFICE OF PETITIONS

In re Application of :
J. Christopher Flaherty et al. :
Application No. 10/195,745 : ON PETITION
Filed: July 15, 2002 :
Attorney Docket No. 59249-039 (INSL-126) :

This is a decision on the petition filed April 6, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on July 6, 2005, for failure to file a timely response to a Restriction Requirement mailed June 1, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed January 6, 2006.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

Additionally, the record reveals that a five month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1080.00 extension of time fee submitted with the petition on April 6, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-3188.

---

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

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

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

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

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

The response to the Restriction Requirement filed April 6, 2006 will be referred to Technology Center 3736 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

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

MAIL

NOV 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Hideo Ando, et al. :
Application No. 10/195,788 : DECISION ON PETITION TO
Filed: July 16, 2002 : MAKE SPECIAL
For: **INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD**

This is a decision on the petition filed October 4, 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 fails to meet requirement (4) above. It is insufficient to state that a search was performed for a parent application or a related Japanese application. The pre-examination search must be made in relation to the current application and the current claimed invention.

For the above stated reasons, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete description of the search method employed for the current application, such as classes and subclasses searched, text keyword search, etc.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Hideo Ando, et al.
Application No. 10/195,788
Filed: July 16, 2002
For: **INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 4, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented on January 11, 2005.

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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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

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AUG 26 2005

OFFICE OF PETITIONS

In re Application of :
Hideo Ando et al :
Application No. 10/195,788 :
Filed: July 16, 2002 :
Attorney Docket No. 225180US2SDIV

ON PETITION

This is a decision on the petition, filed August 26, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 21, 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 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions
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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Ando et al.
Application No. 10/195,789
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

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MAY 20 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of:
Ando et al.
Application No. 10/195,790
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 9, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

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Paper No. 8

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JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Hideo ANDO, et al.
Application No. 10/195,791
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on November 21, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of November 21, 2003 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON, DC 20231
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Paper No. 8

MAR 1 7 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
Hideo Ando et al
Application No. 10/195,801
Filed: July 16, 2002
For: **INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 11, 2003, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The 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.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

Paul M. Denk
763 South New Ballas Road
St. Louis, MO 63141

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JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Dennis P. Riney, et. al.
Application No. 10/195,804
Filed: July 15, 2002
Attorney Docket No. 7260

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2004, 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 Notice to File Missing Parts of Application (Notice) mailed August 14, 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 October 14, 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 required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) and (2) above.

As to item (1), the Office acknowledges receipt of the executed oath/declaration filed January 7, 2004. However, the Notice to File Missing Parts also required petitioner to submit $65 for the late filing of the oath/declaration and substitute drawings in compliance with 37 CFR 1.84, to correct the drawing margins. (See 37 CFR 1.84(g)).

As to item (2), finance records indicate that petitioner submitted $640 for the petition to revive fee. However, effective October 1, 2003, the petition to revive fee was increased to $665.

The above-identified application cannot be revived until the substitute drawings, the $65 surcharge for the late filing of the oath/declaration, and the $25 petition fee deficiency are submitted.

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)", and the missing items noted above. Petitioner is advised that this is not a final agency decision.

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

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

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

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

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

Any questions concerning this matter may 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Paul M. Denk
763 South New Ballas Road
St. Louis, MO 63141

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APR 28 2004
OFFICE OF PETITIONS

In re Application of
Dennis P. Riney, et. al.
Application No. 10/195,804
Filed: July 15, 2002
Attorney Docket No. 7260

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 13, 2004, to revive the above-identified application.

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

In response to the petition decision mailed February 22, 2004, petitioner submitted with the instant petition $25 to complete the $665 petition fee deficiency, $65 for the late filing of the oath/declaration, and six (6) sheets of substitute drawings, in compliance with 37 CFR 1.84, containing Figures 1-9.

Since all 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.

Any questions 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 8

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

In re Application of:
Ando et al.
Application No. 10/195,810
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 9, 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.

For Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

MAILED

JUN 0 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 8

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

In re Application of:
Ando et al.
Application No. 10/195,811
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 9, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

MAILED

MAY 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Hideo Ando, et al.
Application No. 10/195,812
Filed: July 16, 2002
For: INFORMATION RECORDING METHOD AND INFORMATION REPRODUCING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 31, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Chung K. Ko.
1263 Lakeside Dr. #2190
Sunnyvale CA 94085

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Sang K. CHA et al.	:	
Application No. 10/195,822	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. 1906	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 12, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 13, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 12, 2004 is accepted as having been unintentionally delayed.

Furthermore, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on November 1, 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

cc: Chung K. Ko
Room 313, Building 133
San 56 1 Shillim-dong, Kwanak-ku
Seoul, Korea

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 03, 2008

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/195822 Patent No.: 7305421 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

/John Breene/ — **SPE**

2162 — **Art Unit**

UNITED STATES
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TRADEMARK OFFICE

#10

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

JUN 16 2003

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of Fung-Lung Chung et al Serial No.: 10/195,834 Filed: July 15, 2002 Attorney Docket No.: U014119-9	PETITION DECISION TO RESTART PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR § 1.181, filed May 22, 2003, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on March 27, 2003, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office action until May 16, 2003, more than one month after the mail date thereof, and provide copies of the docketing receipt stamped first page of the Office action as evidence thereof. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed March 27, 2003, is hereby restarted as of applicants' date of receipt, May 16, 2003. The time period for reply remains as set therein.

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

JUL 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Alexander Gaiger, et al.	:	
Application No. 10/195,835	:	DECISION GRANTING PETITION
Filed: July 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 210121.610C1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Alexander Gaiger	: DECISION ON REQUEST FOR
Patent Number	: 7655249	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/195,835	: 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 **1800** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No: __

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JAN 27 2006
OFFICE OF PETITIONS

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

In re Application of	:	
Goldman, et al.	:	
Application No. 10/195,840	:	DECISION
Filing Date: 15 July, 2002	:	
Attorney Docket No. LYTRO-010XX	:	

This is a decision on the petition filed on 1 June, 2005, and resubmitted on 26 September, 2005, to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the final Office action mailed on 6 July, 2004, with reply due absent extension of time on or before 6 October, 2004;
- the application went abandoned after midnight 6 October, 2004;
- the Office mailed the Notice of Abandonment on 4 May, 2005;
- notably, the record also reflects that Petitioner filed via FAX on 4 January, 2005, *inter alia*, over a 4 January, 2005, certificate of FAX transmission, a reply to the Office action in the form of an amendment (as a submission) and a request for continued examination

(RCE), with fee authorization, as well as a request and fee for a three- (3-) month extension of time–also of note is that the Office charged as authorized the extension of time to Deposit Account 23-0804, but did not charge the RCE fee and there is no indication of record that the fees could not be charged;

- thereafter, on 21 January, 2005, the Examiner issued an Advisory Action, apparently unaware of the RCE (and fee) that had been filed;

- on 1 June, 2005, Petitioner filed the instant petition, evidencing therewith the facts and documents set forth above, and, when the Office did not respond to that petition, Petitioner resubmitted the petition on 26 September, 2005.

STATUTES, REGULATIONS AND ANALYSIS

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

As to a Request to Withdraw
the Holding of Abandonment

Petitioner alleges timely reply to the Office action, and supports the allegation with the above-referenced documentation.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the Abandonment of 4 May, 2005, having been improvidently entered hereby is withdrawn, and the fee for the RCE, timely authorized but uncharged, now is charged to Deposit Account 23-0804. Further, for reasons unexplained in the record, the Office charged to that deposit account a petition fee in the amount of $500.00, which hereby is refunded.

The instant application is released to Technology Center 3700 for further processing 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL D. GREELEY, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

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OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Thurnhofer et al. :
Application No. 10/195,847 :DECISION GRANTING PETITION
Filed: 15 July, 2002 :
Attorney Docket No. 360.7659USU :

This is a decision on the petition filed on 4 September, 2002, requesting that the above-identified application be accorded a filing date of 15 July, 2002, instead of the presently accorded filing date of 11 July, 2002.

The petition is **GRANTED**.

Petitioners assert that the application was deposited in Express Mail service on 15 July, 2002. Petitioners state that the Express Mail Customer Label, however, incorrectly states the "date-in" is "7-11". In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 15 July, 2002, petitioners supplied, on 4 September, 2002, a tracking report printed from the USPS Internet Track & Confirm and database, which shows that a mailing bearing Express Mail Label No. EV072626885US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file) was "Enroute" on 15 July, 2002. Furthermore, a search of the USPTO's USPS Express Mail Information Database shows that a package bearing the above-identified Express Mail number was accepted by the USPS on 15 July, 2002.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 15 July, 2002.
In view of the above, the application is entitled to a filing date of 15 July, 2002.

The petition is granted. No petition fee was submitted and none is due.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 15 July, 2002, not 11 July, 2002, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 703-308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

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MAR 1 5 2007

OFFICE OF PETITIONS

In re Application of	:
Xiangxin Bi et al	:
Application No. 10/195,851	: DECISION ON PETITION
Filed: July 15, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2950.60US01	: AND 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/241,200. The petition is also being 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 prior-filed nonprovisional Application No. 10/027,906, as there is no indication that a claim for benefit of priority was ever made to this application.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Next, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---, and is a continuation of Application No. 09/---, filed ---, and is a continuation of Application No. 09/---, filed ---, which is a continuation of Application No. 09/---, filed ---, which claims priority to provisional Application No. 60/---, filed, etc." Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The relationship between applications in the chain should be clearly stated. The claim for benefit of priority fails to properly state the relationship between each of the applications.

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

Further, the claim for benefit of priority, as worded, is currently improper since a few of the applications do not have a common inventor; namely, Application Nos. 09/931,977, 60/312,234, 10/138,754, and 60/288,533.

Additionally, the claim for priority, as worded, states that this application is a continuation-in-part of "copending Provisional Patent application serial number 60/312,234 ***" and "copending U.S. Provisional Patent Application serial number 60/315,438." As presently presented, the claim for priority to the two provisional applications is under the provisions of 35 U.S.C. § 120 rather than 35 U.S.C. § 119(e).

Petitioner's attention is directed to MPEP 201.11B *Reference to Prior Provisional Application*, which states in part:

> The relationship (i.e., continuation, divisional, or continuation-in-part) is not required and should not be specified when a prior provisional application is being claimed under 35 U.S.C. 119(e). No relationship should be specified because whenever a priority claim to a provisional application under 35 U.S.C. 19(e) is made, it is implicit that the relationship is 'nonprovisional application of a provisional application.' If a relationship between a prior provisional application and the nonprovisional application is submitted, it may be unclear whether the applicant wishes to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e) or 120. Thus, applicants seeking to claim the priority to a provisional application under 3 U.S.C. 119(e) should <u>not</u> state that the application is a 'continuation' of a provisional application or that the application claims 35 U.S.C. 120 benefit to a provisional application. Although 35 U.S.C. 120 dopes not preclude a benefit claim to a provisional application, it is not recommend that applicants claim the benefit to a provisional application under 35 U.S.C. 120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application pursuant to 35 U.S.C. 154(a)(2).

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and (iii) and 37 CFR 1.78(a)(5)(i) and (iii). As such, the amendment unacceptable.

Accordingly, before the petition can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and either an Application Data Sheet or an amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) correcting the above defects must be submitted for an acceptable petition to accept the delayed claim for priority to the above-noted applications. Petitioner is advised to carefully review the claim for benefit of priority to the applications noted in the amendment and make sure that each and every application properly sets forth the relationship and chain of applications and that there is a common inventorship in the chain of applications being claimed.

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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

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MINNEAPOLIS, MN 55402

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:
Xiangxin Bi et al	:
Application No. 10/195,851	: DECISION ON PETITION
Filed: July 15, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2950.60US01	:

This is a decision on the renewed petition treated under 37 CFR 1.78(a)(6), filed February 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/241,200.

The petition is **DISMISSED.**

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

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

The petition currently does not satisfy item (1).

The claim for benefit of priority includes the following statement: " * * * copending U.S. Provisional Patent Application serial number 60/315,438 * * *" (*i.e.*, this application is a continuation-in-part of provisional Application No. 60/315,438), which, as worded, claims priority to the provisional application under the provisions of 35 U.S.C. **§ 120**, rather than 35 U.S.C. § **119(e).** While this is permissible, petitioner must state that this is what is intended. As noted in the prior decision:

Petitioner's attention is directed to MPEP 201.11B *Reference to Prior Provisional Application*, which states in part:

> The relationship (i.e., continuation, divisional, or continuation-in-part) is not required and should not be specified when a prior provisional application is being claimed under 35 U.S.C. 119(e). No relationship should be specified because whenever a priority claim to a provisional application under 35 U.S.C. 19(e) is made, it is implicit that the relationship is 'nonprovisional application of a provisional application.' If a relationship between a prior provisional application and the nonprovisional application is submitted, **it may be unclear whether the applicant wishes to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e) or 120.** Thus, applicants seeking to claim the priority to a provisional application under 3 U.S.C. 119(e) should not state that the application is a 'continuation' of a provisional application or that the application claims 35 U.S.C. 120 benefit to a provisional application. Although 35 U.S.C. 120 does not preclude a benefit claim to a provisional application, it is not recommend that applicants claim the benefit to a provisional application under 35 U.S.C. 120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application pursuant to 35 U.S.C. 154(a)(2).

In view of the above, and if petitioner did not intend to claim a benefit of priority under 35 U.S.C. § 120 to provisional Application No. 60/315,438, then the claim should be amended to clearly indicate that this application claims benefit to the provisional application rather than claiming a relationship thereto (*i.e.,* continuation-in-part). Petitioner is reminded that the relationship between applications in an amendment must be clearly stated.

Next, the claim for benefit of priority is unclear as to the following sentence: " * * * copending PCT application designating the U.S. serial number PCT/US01/32413, a continuation of which is now U.S. Patent 7,039,264 * * *." It is unclear what the intended relationship of Patent No. 7,039,264 is to the PCT application or to this application. It is noted that Patent No. 7,039,264 was issued from Application No. 10/420,343, which was filed on April 22, 2003. As Application No. 10/420,343 is not a prior-filed application, it would be inappropriate to claim benefit to this application herein and all reference thereto should be deleted from the claim for priority. Further, 37 CFR 1.78(a)(1) requires that the reference to a prior-filed application must identify the claim for benefit by the application number, rather than by the patent number.

Petitioner is again reminded that 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed

application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---, and is a continuation of Application No. 09/---, filed ---, and is a continuation of Application No. 09/---, filed ---, which is a continuation of Application No. 09/---, filed ---, which claims priority to provisional Application No. 60/---, filed, etc." Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. **The relationship between applications in the chain should be clearly stated.**

Accordingly, before the petition can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either as Supplemental Application Data Sheet or an amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) correcting the above defects must be submitted for an acceptable petition to accept the delayed claim for benefit of priority. If submitted in a Supplemental Application Data Sheet, it must be signed in compliance with 37 CFR 1.33(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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(6).

Any questions concerning this matter may be directed to the undersigned at 571-272-3218.

Frances Hicks

Frances Hicks
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Xiangxin Bi et al	:	
Application No. 10/195,851	:	DECISION ON PETITIONS
Filed: July 15, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2950.60US01	:	AND 37 CFR 1.78(a)(6)

This is a decision on the renewed petition, filed September 26, 2007, which is being treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to 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 (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1773 for consideration by the Examiner in due course of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications. It is noted that a final Office action was mailed on October 9, 2007. Failure to timely file a proper reply to the October 9, 2007 will result in the abandonment of this application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/195,851	07/15/2002	1794	1458	2950.60US01	101	10

CONFIRMATION NO. 8490

CORRECTED FILING RECEIPT

62274
DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

OC000000026426027

Date Mailed: 10/24/2007

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)

Xiangxin Bi, San Ramon, CA;
Nobuyuki Kambe, Menlo Park, CA;
Craig R. Horne, Fremont, CA;
James T. Gardner, San Jose, CA;
Ronald J. Mosso, Fremont, CA;
Shivkumar Chiruvolu, San Jose, CA;
Sujeet Kumar, Newark, CA;
William E. McGovern, LaFayette, CA;
Pierre J. DeMascarel, Sunnyvale, CA;
Robert B. Lynch, Livermore, CA;

Power of Attorney: The patent practitioners associated with Customer Number 62274

Domestic Priority data as claimed by applicant

This application is a CIP of 09/715,935 11/17/2000
which claims benefit of 60/241,200 10/17/2000
This application 10/195,851
is a CIP of 09/818,141 03/27/2001 PAT 6,599,631
which claims benefit of 60/265,169 01/26/2001
This application 10/195,851
is a CIP of 09/843,195 04/26/2001 PAT 6,692,660
and is a CIP of 09/845,985 04/30/2001
and is a CIP of 09/969,025 10/01/2001
and claims benefit of 60/315,438 08/28/2001
and is a CIP of PCT/US01/32413 10/16/2001

and is a CIP of PCT/US01/45762 10/26/2001
which claims benefit of 60/243,491 10/26/2000
This application 10/195,851
is a CIP of PCT/US02/01702 01/17/2002
which claims benefit of 60/262,274 01/17/2001
and claims benefit of 60/262,273 01/17/2001
This application 10/195,851
is a CIP of 10/027,906 12/21/2001 PAT 6,952,504
and is a CIP of 10/083,967 02/25/2002 PAT 7,226,966
which claims benefit of 60/309,887 08/03/2001
This application 10/195,851
is a CIP of 10/099,597 03/15/2002 PAT 6,849,334
which claims benefit of 60/313,588 08/17/2001
This application 10/195,851
is a CIP of 10/119,645 04/10/2002 PAT 6,919,054

Foreign Applications

If Required, Foreign Filing License Granted: 09/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/195,851**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

NANOPARTICLE-BASED POWER COATINGS AND CORRESPONDING STRUCTURES

Preliminary Class

428

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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JJGJr: 11-03

Paper No: 11

FLEIT KAIN GIBBONS
GUTMAN & BONGINI
COURVOISIER CENTRE II/SUITE 404
601 BRICKELL KEY DRIVE
MIAMI FL 33131

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of
Labelle, et al. :
Application No. 10/195,854 : ON PETITION
Filed: 15 July, 2002 :
Attorney Docket No.: 744-X02-003 :

This is a decision on the petition (with fee) filed on 13 August, 2003, under 37 C.F.R. §1.182 to correct the order of inventorship to list the inventors as Pierre Labelle, Jacques Amyot, Gesoges Usereau, Donald Argo, Martin Lussier and Michel Lefebvre.

The petition is **GRANTED**.

The file is being forwarded to OIPE for the change to be made in the Office records and a corrected filing receipt to be mailed listing the inventors in the following order:

Pierre Labelle,
Jacques Amyot,
Gesoges Usereau,
Donald Argo,
Martin Lussier,
and
Michel Lefebvre,

and the file then to be returned to Technology Center 3600 for further processing in due course.

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

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

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JAN 11 2006

HELLER EHRMAN
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/195,885	: PETITION DECISION
Filed: July 15, 2002	:
Attorney Docket No.: 39870-3430R1C331	:

This is a response to the petition for withdrawal of a response to an Office action which is being treated as a petition to expunge under 37 CFR 1.59(b), filed September 27, 2005.

Petitioner requests that a response was inadvertently submitted in this application which was intended for a companion application. Petitioner does not state either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. However the information is not pertinent to and does not address the rejections of record in this application file. **The petition fee set forth in 37 CFR 1.17(h) of $130.00 has been authorized, however the petition fee for this petition is $200.00 and has been charged to applicants' Deposit Account No. 08-1641, as requested.**

Applicants filed a response to an Office action referring to an Office action dated March 22, 2005. However the Office action for which response was needed was mailed May 17, 2005. Further, the Attorney Docket number of the response filed September 21, 2005, is not that of the instant application, but of a companion application. It is concluded that the response filed September 21, 2005, was filed in error and the papers will be closed to public access which is the equivalent of expunging them from the record.

The petition is **GRANTED.**

Applicants request also the refund of the three month extension of time fee paid with the response as it was paid in error in this application. **The extension of time fee paid 9/27/05 of $1020.00 will be credited to applicants' Deposit Account No. 08-1641, as requested.**

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

In re Patent No. 7,534,856
Issued: May 19, 2009
Application No. 10/195,889
Filed: July 15, 2002
Attorney Docket No. GNE-3430-R1C329

: 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 June 25, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred sixty-two (762) days to one thousand one hundred twelve (1112) days.

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

On May 19, 2009, the above-identified application matured into US Patent No. 7,534,856 with a patent term adjustment of 762 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).

Per the authorization contained in the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 50-4634 in the amount of $200.00 for the instant petition. No additional fees are required.

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 in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 1112 days, which includes 350 days of patent term adjustment due to exceeding three year pendency and 882 days due to USPTO delay in prosecution."

The 350-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on July 15, 2002, and the RCE being filed on June 30, 2006, three years and 350 days later. Patentees assert that in addition to this 350-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 882 days for the failure by the Office to mail at least one of a notification

under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). 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, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 120 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (350 days) and the period of Examination Delay (882 days) 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 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1232 days, which is the sum of the period of Three Year Delay (350 days) and the period of Examination Delay (882 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1112 days (350 + 882 reduced by 0 overlap – 120(applicant delay)).

The Office agrees that as of the filing of the RCE on June 30, 2006, the application was pending three years and 350 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 762 days is correct. At issue is whether patentees should accrue 350 days of patent term adjustment for the Office taking in excess of three years to issue the patent under 37 CFR 1.702(b), as well as 882 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 350 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]

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) (I) (B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b) (2) (A) is the entire period during which the application was pending before the Office until the filing of the RCE, July 15, 2002 to June 30, 2006. During that time, the issuance of the patent was delayed by 882 days, not 882 + 350 days. The Office took 14 months and 882 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 882 days of Office delay and the 120 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 350 days until the filing of the RCE. The Office did not delay 882 days and then an additional 350 days. Accordingly, 882 days of patent term adjustment (not 882 and 350 days) was properly entered since the period of delay of 350 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 882 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 882 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 350 days over three years.

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, at issuance, the Office properly entered no additional days of patent term pursuant to 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 7TH AVENUE
14TH FLOOR
NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Patent No. 6,880,426	:	
Issue Date: April 19, 2005	:	
Application No. 10/195,926	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. 487.1053	:	

This is a decision on the petition filed March 16, 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 delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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HITT GAINES, PC
AGERE SYSTEMS INC.
PO BOX 832570
RICHARDSON TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Downey et al.	:	
Application No. 10/195,935	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. DOWNEY 15-15-158	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 5, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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SADDLE BROOK, NJ 07663

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OFFICE OF PETITIONS

In re Patent No. 6,951,960 :
Issue Date: October 4, 2005 :
Application No. 10/195,969 :
Filed: July 16, 2002 :
Attorney Docket No. PC-4190/USA :

ON PETITION

This is a decision on the petition filed October 31, 2005, which is being treated as a petition under 37 CFR 3.81(b), to accept the correction of the assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction in the name of "Goro Nickel S.A., Noumea, New Caledonia." However, Office PALM computer database assignment records reflect that the city name of the assignee sought by the certificate of correction was recorded as Noumea **Cedex**. Accordingly, if reconsideration of this decision is requested, petitioner must supply either the reel and frame number where the recorded assignment appears or supply a copy of the recorded assignment. If the assignment was not recorded, or submitted for recordation, prior to issuance of this patent, a certificate of correction would not be in order. Note MPEP Section 307.

However, it would be appropriate to grant the instant petition to reflect the assignee data as **Goro Nickel S.A., Noumea Cedex, New Caledonia** on the front page of the Letters Patent. Accordingly, if petitioner desires to have the assignee data corrected on the front page of the Letters Patent, petitioner should submit a request for reconsideration under 37 CFR 3.81(b), along with a request for a Certificate of Correction and PTO Form 1050.

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

By mail: Mail Stop PETITIONS

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

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

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

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

Wan Laymon
Petitions Examiner
Office of Petitions

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SADDLE BROOK, NJ 07663

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OFFICE OF PETITIONS

In re Patent No. 6,951,960	:	
Issue Date: October 4, 2005	:	
Application No. 10/195,969	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. PC-4190/USA	:	

This is a decision on the renewed petition filed december 22, 2005, which is being treated as a request 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 **GRANTED**.

The patent 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) 272-3220. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Wan Laymon
Petitions Examiner
Office of Petitions

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1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Jerome B. Zeldis et al	:	
Application No. 10/195,974	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. CELG-0356	:	

This is a decision on the petition, filed May 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jerome B. Zeldis et al	:	
Application No. 10/195,974	:	
Filed: July 16, 2002	:	
Attorney Docket No. CELG-0356	:	

This is a decision on the petition, filed October 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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JUN 13 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jerome B. Zeldis et al :
Application No. 10/195,974 :
Filed: July 16, 2002 :
Attorney Docket No. CELG-0356 :

This is a decision on the petition, filed June 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : June 13, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jerome B. Zeldis et al
Application No. :10/195,974
Filed :July 16, 2002

The above-identified application has been assigned Patent No. 6,908,933 and an issue date of June 21, 2005.

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 21, 2005:

"All reference to Patent No. 6,908,933 to Jerome B. Zeldis et al of New Jersey for METHODS FOR TREATMENT OF COGNITIVE AND MENOPAUSAL DISORDERS WITH D-THREO METHYLPHENIDATE appearing in the Official Gazette of June 21, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Jerome B. Zeldis et al	:	
Application No. 10/195,974	:	DECISION GRANTING PETITION
Filed: July 16, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CELG-0356	:	

This is a decision on the petition, filed November 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 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 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Patent No. 7.115,631 :
Issued: October 3, 2006 :
Application No. 10/195,974 : ON PETITION
Filed: July 16, 2002 :
Attorney Docket No: **CELG-0356** :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed August 17, 2007. The request is being treated as a petition 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.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

SEYFARTH SHAW
55 EAST MONROE STREET
SUITE 4200
CHICAGO, IL 60603-5803

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OFFICE OF PETITIONS

In re Application of :
Daniel S. Pusateri, et al. :
Application No. 10/195,998 :
Filed: July 15, 2002 :
Attorney Docket No. 451990 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 24, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on October 24, 2003.

The application file is being forwarded to Technology Center 3700, Art Unit 3721 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARLIN KNIGHT
HOYT & KNIGHT
P.O. BOX 1320
PIONEER, CA 95666

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OFFICE OF PETITIONS

In re Application of	:	
Detlef Gador et al	:	
Application No. 10/196,006	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed February 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 28, 2004.

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

The application is being forwarded to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Dennis A. DeBoo
DeBoo & Co.
400 Capitol Mall, Suite 900
Sacramento, CA 95814

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AUG 07 2003

OFFICE OF PETITIONS

In re Application of
Spriggs, et al.
Application No. 10/196,007
Filed: July 15, 2002
Atty. Dkt No.: 22106-cip

ON PETITION

This is a decision on the petition under 37 CFR 1.182 to correct the names of the inventors in the above-identified application filed July 11, 2003.

The declaration submitted October 15, 2002 identified the inventive entity as follows: Bob Spriggs, Bob Hayashida, Ken Ceglia, Diana Seymour, Mike Peden, Paul Richetta, Matt Anderson, Daryl Frogget, Scott Roby, and Mark Jensen.

Petitioner now contends that the declaration failed to comply with the requirements of 37 CFR 1.63(a)(2) as the declaration failed to provide the full name, including the family name, and at least one given name without abbreviation together with any other given name or initial.

The instant petition seeks to correct the spelling of the inventors named herein as follows: **Robert L. Spriggs, Robert D. Hayashida, Kenneth P. Ceglia, Diana L. Seymour, Michael D. Peden, Paul F. Richetta, Matthew D. Anderson, Daryl R. Frogget, Scott A. Roby, and Denmark A. Jensen.**

The procedure for correcting an inventive entity attributable to non-deceptive clerical error requires the submission of a petition under 37 CFR 1.182 (and required fee) setting forth the requested change. The instant petition has been reviewed and found in compliance with current Office procedure.

Accordingly, the petition under 37 CFR 1.182 is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for correction of the PALM bib-data sheet in keeping with the instant decision.

Telephone inquiries pertaining to 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

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SAWYER LAW GROUP
P.O. Box 51418
Palo Alto CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Wilding et al.	:	
Application No.: 10/196024	:	DECISION ON
Filing or 371(c) Date: 07/15/2002	:	PETITION
Attorney Docket Number: CA920010058US1/2456P	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed August 11, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed April 5, 2007. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 6, 2007. A Notice of Abandonment was mailed January 1, 2008.

Applicant files the present petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2165 for processing of the reply to the Notice filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 2 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

Robert J. Irvine
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago IL 60606

In re Application of: Kemp et al. Application No. 10/196,056 Attorney Docket No. 02-436 Filed: July 15, 2002 For: METHOD AND APPARATUS FOR MESSAGE FLOW AND TRANSACTION QUEUE MANAGEMENT	)))))))	**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 along with a fee, on February 24, 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 fully satisfies the criteria set forth in the cited sections.

The petition is **GRANTED**. The application has been granted special status.

Prosecution of the application will proceed according to the procedure set forth in MPEP 708.02(VIII). Applicant is reminded that there is no provision for "withdrawal" from this special status. The application has been forwarded to the appropriate art unit for examination.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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In re Application of	:	
Gary A. KEMP, II. et al.	:	
Application No. 10/196,056	:	DECISION ON PETITION
Filed: July 15, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **02-436**	:	

This is a decision on the petition, filed October 05, 2009, 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 15, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202-3797

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AUG 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kevin M. HENSON, et al	:	
Application No. 10/196,061	:	DECISION ON PETITION
Filed: July 15, 2002	:	TO WITHDRAW
Attorney Docket No. 108801.00013	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 1, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if 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 reason set forth in the request, Clients has requested all files, does not meet any of the conditions set forth in 37 CFR 10.40.

The request cannot be approved because the attorneys of record were not appointed by Customer Number 25555, the attorneys of record were appointed individually.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. DUKE DUPRE
3929 DOVE CREEK LANE
PLANO, TX 75093

UNITED STATES PATENT AND TRADEMARK OFFICE

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901 MAIN STREET, SUITE 6000
DALLAS TX 75202-3797

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of
Kevin M. Henson, et al
Application No. 10/196,061
Filed: July 15, 2002
Attorney Docket No. 108801.00013

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 26, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. DUKE DUPRE
3929 DOVE CREEK LANE
PLANO, TX 75093

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____8/4/04_____

TO SPE OF : ART UNIT____1626____

SUBJECT : Request for Certificate of Correction on Patent No.: _____6706766_____

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.

Please see COCIN dated 5-10-04 in the table of contents in IFW.

Diana T. Rose
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

Joseph McKane 8/5/04 — **SPE**

1626 — **Art Unit**

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

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OFFICE OF PETITIONS

In re Application of Paul A. Farrar Application No. 10/196,081 Filed: July 16, 2002 Attorney Docket No. 303.664US3	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 29, 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 August 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-04

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/146107 Patent No.: 7026128

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 Related vs Application Data / claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Title page Continuity has errors - PCT filed 30 Dec 93; Drawing - 22 A-C is correct; Drawing 24 is correct (Not A-B). Just A-G

SPE

1653

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

LOUIS J. HOFFMAN, P.C.
14614 NORTH KIERLAND BOULEVARD,
SUITE 300
SCOTTSDALE AZ 85254

COPY MAILED
JUL 1 5 2005
OFFICE OF PETITIONS

In re Application of	:
Andrew L. DiRienzo	: DECISION ON PETITION
Application No. 10/196,122	: UNDER 37 CFR 1.78(a)(3)
Filed: July 17, 2002	:
Attorney Docket No. AIC-012US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 18, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

An amendment in compliance with 37 CFR 1.121 have not been met.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment in compliance with 37 CFR 1.121 is required.

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

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

cc:
WESTERLUND & POWELL, P.C.
100 DAINGERFIELD RD., SUITE 100
ALEXANDRIA, VA 22314-3011

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

AUG 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Keisuke Tsukamoto et al	:	
Application No. 10/196,166	:	
Filed: July 17, 2002	:	
Attorney Docket No. XA-9721	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Hoffman, Wasson & Gitler, PC
2461 South Clark Street
Suite 522
Arlington, VA 22202

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Mark Preece	:	
Application No. 10/196,176	:	ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. A-7514.PTR/cat	:	

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

The petition is **GRANTED**.

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

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

The application file is being forwarded to Technology Center 3700.

Marianne E. Jenkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ROBERT N. BLACKMON
MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Robertson et al.	:	
Application No. 10/196,236	:	ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. CZABU009.14	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 30, 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 September 24, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 28, 2004.

Petitioner submitted a total of $1450.00 with the instant petition for payment of the petition fee, issue fee and publication fee. However, on December 8, 2004, the petition and issue fees were increased. A total of $1750.00 was due. The additional $300.00 was charged to petitioner's deposit account as previously authorized.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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MAR 12 2007

OFFICE OF PETITIONS

In re Patent No. 7,099,385 :
Issue Date: August 29, 2006 :
Application No. 10/196,247 : NOTICE
Filed: July 17, 2002 :
Attorney Docket No. P66899US1 :

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 no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Hwy.
Arlington, VA 22202-3124

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of Kapoor Application No. 10/196,286 Filed: July 17, 2002 Atty. Dkt. No.: 14069 For: CUSTOMIZABLE PUBLIC KEY INFRASTRUCTURE AND DEVELOPMENT TOOL FOR SAME	DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed February 3, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Amit Kapoor 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(b). This application is hereby accorded Rule 1.47(b) status.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMIT KAPOOR
502 FORREST AVENUE, #021
PALO ALTO, CA 94301

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of Kapoor Application No. 10/196,286 Filed: July 17, 2002 Atty. Dkt. No.: 14069 For: CUSTOMIZABLE PUBLIC KEY INFRASTRUCTURE AND DEVELOPMENT TOOL FOR SAME	:	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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RIM
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

Mail Date: 04/21/2010

Applicant	: Amit Kapoor	: DECISION ON REQUEST FOR
Patent Number	: 7610484	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/196,286	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PRESTON GATES & ELLIS LLP
ATTN: C. RACHAL WINGER
925 FOURTH AVE, SUITE 2900
SEATTLE, WA 98104-1158

COPY MAILED
DEC 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael E. Gertner et al	:	
Application No. 10/196,296	:	DECISION ON PETITION
Filed: July 15, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 021353-000100US	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on March 28, 2005, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted special status, the application must be related to the field of Biotechnology.

The petitioner does not meet the above-listed requirements set forth in MPEP § 708.02, XII; therefore, the petition is dismissed.

The subject matter of the application does not relate to biotechnology. Biotechnology involves the use of recombinant DNA or hybridoma technologies to produce useful molecules (e.g. proteins, like enzymes, antibodies, etc.) for altering, biological processes, such as in the prevention/treatment of disease. The invention disclosed in the above-identified application involves a method that provides a bioactive substrate, bioactive composite structure, and stent made from metal and bioactive materials. These bioactive materials do not use recombinant DNA or hybridoma technologies to produce molecules for altering biological processes, and as such, are not considered to relate to biotechnology.

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

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

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

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

By FAX: (571) 273-8300

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1618 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Preston Gates & Ellis LLP
1900 Main Street, Suite 600
Irvine, CA 92614-7319

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. 04

MAR 3 2003

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

In re Application of:	:	
Shim, *et al.*	:	
Application No. 10/196,299	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: July 15, 2002	:	
For: MULTI-CHIP PACKAGE (MCP) WITH SPACER	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 27, 2002.

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

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

The request is approved.

The application currently has no attorney of record.

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

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

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

cc: Mr. John Castellano
Harness, Dickey & Pierce
12355 Sunrise Valley Drive, Suite 350
Reston, VA 20191

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

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward P. Felt et al	:	
Application No. 10/196,322	:	DECISION GRANTING PETITION
Filed: July 15, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BEAS-01062US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 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 2195 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 23, 2010

TO SPE OF : ART UNIT 2195 - SPE Meng-ai T. An.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/196,322 Patent No.: 7,337,441 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change in the claims be approved? The applicant is requesting to change text to the printed claim.

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 12

Thomas A. O'Rourke
425 Broadhollow Road
Melville, NY 11747

COPY MAILED

JAN 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Don Cannetti	:	
Application No. 10/196,325	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. n/a	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 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 11, 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 12, 2003.

The application file is being forwarded to Technology Center AU 3751.

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
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Martin & Henson, P.C.
9250 W 5th Street
Suite 200
Lakewood, CO 80226

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of

Clifton B. Neeley et al.
Application No. 10/196,331
Filed: July 15, 2002
Attorney Docket No. 1819

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 April 28, 2006.

The request is **APPROVED**.

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

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with Customer No. 24264.

All attorneys/agents associated with the Customer No. 24264 have been withdrawn.

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

All future correspondence will be directed to the first named inventor Clifton B. Neeley at the first listed address below.

There is an outstanding Office action mailed April 19, 2006 that requires a reply from the applicant.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Clifton B. Neeley
1750 30th Avenue Court
Greeley, CO 80634

cc: Clifton B. Neeley
5587 W. 19 Street
Greeley, CO 80634

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/196,331	07/15/2002	Clifton B. Neeley	1819

CONFIRMATION NO. 2224

OC000000020320175

OC000000020320175

24264
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

Date Mailed: 09/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

J. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Harutomo Nomoto et al :
Application No. 10/196,383 : DECISION GRANTING PETITION
Filed: July 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 020912 :

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
P. O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:
Yoel Fink et al	:
Application No. 10/196,403	: DECISION GRANTING PETITION
Filed: July 16, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MIT.9401	:

This is a decision on the petition, filed May 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 7, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\196403.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Baker & McKenzie LLP
1114 Avenue of Americas
New York, NY 10036

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Brendon Conlan et al.	:	
Application No. 10/196,435	:	DECISION ON PETITION
Filed: July 15, 2002	:	TO WITHDRAW
Attorney Docket No. 56104576-37	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2005.

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

A review of the file record indicates that the power of attorney to Customer Number 26453 has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Erich E. Veltenhelmer, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, NW
Washington D.C. 20004

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

MAILED

AUG 10 2005
Director's Office
Group 3700

Denis J. Aubin
6811 Mt. Orange Dr. N.E.
St. Petersburg, FL 33702

In re application of
Denis J. Aubin

Serial Number: 10/196450
Filed: July 16, 2002

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **ENHANCED FLUID MOTION**

This is a decision on the petition filed on June 20, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be 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 is 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: Decision on Petition **GRANTED**.

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

rt: 8/10/05

UNITED STATES 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.

Robert J. Kapalka
Tyco Technology Resources
Suite 450
4550 New Linden Hill Road
Wilmington, DE 19808-2952

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Lewis et al.	:	
Application No. 10/196,452	:	DECISION ON
Filed: July 16, 2002	:	PETITION
Attorney Docket No. 17858	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION filed February 1, 2006.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed August 24, 2005. The period for transmitting the issue fee is not extendable. No reply having been received, the above-identified application became abandoned on November 25, 2005. A courtesy Notice of Abandonment was mailed on January 24, 2006.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting withdrawal of the holding of abandonment.

A review of the application file reveals no irregularities in the mailing of the Office action mailed August 24, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in

mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed January 24, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2839 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for mailing of a new Notice of Allowance and Fee(s) Due (and mailing of a new Notice of Allowability) and for restarting of the period for reply to both Notices.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

FEB - 1 1994

Marshall, O'Toole, Gerstein,
Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

RECEIVED
FEB - 8 1994
MARSHALL O'TOOLE

fc715 U.S. PTO
10/196460
07/16/02

In re Application of	:	
Georgia Theofan et al.	:	
Serial No. 08/013,801	:	DECISION ON REQUEST
Filed: February 2, 1993	:	FOR RECONSIDERATION
Attorney Docket No. 27129/30911	:	

This is a decision on the request for reconsideration filed in the above-identified application on October 4, 1993, again requesting that the application be accorded a filing date of February 2, 1993. The original request for reconsideration filed on October 4, 1993, is not present in the file. Therefore, this decision is based on the duplicate papers filed by facsimile transmission on February 1, 1994.

The present request is accompanied by the declaration in compliance with 37 CFR 1.63 and by the supplemental declaration required in the Decision mailed July 30, 1993.

In view of the above, the petition is granted.

The "contingent" amendment (Paper No. 4 1/2) filed on April 23, 1993, will be entered in due course.

The drawings of Figures 8 and 9 filed on April 23, 1993, will not be entered or used during further prosecution.

The application is being forwarded to the Office of Finance for charging the $130.00 surcharge to counsel's deposit account No. 13-2855.

The application will then be returned to Application Division for further processing with a filing date of February 2, 1993, using the declaration filed on February 1, 1994.

John F. Gonzales
Special Program Examiner
Office of the Assistant Commissioner for Patents

JFG

JUL 27 1995

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

APPLICATION NUMBER	RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/466,822	06/06/95	THEOFAN G	27129/02737

0202/0720
JEFFREY S SHARP
MARSHALL O'TOOLE GERSTEIN
MURRAY AND BORUN
6300 SEARS TOWER 233 SOUTH WACKER DRIVE
CHICAGO IL 60606-6402

0000

07/20/95

jc715 U.S. PTO
10/196460
07/16/02

NOTICE OF INCOMPLETE APPLICATION FILED UNDER 37 CFR 1.60

A filing date has NOT been assigned since 37 CFR 1.60 has not been complied with for the reason(s) indicated below:

1. ☐ A copy of the specification (description and claims) filed in the parent application:
   a. ☐ is missing.
   b. ☐ has page(s)_____ missing.
   c. ☐ has the description of the invention missing.
   d. ☐ has claim(s)_____ missing.

2. ☐ A copy of the drawings as filed in the parent application is missing.

3. ☐ A copy of any amendments referred to in the oath or declaration filed to complete the parent application is missing.

4. ☐ A statement is missing that the application papers filed are a true copy of the prior application, and that no amendments referred to in the oath or declaration filed in the prior application introduced new matter. Such statement must be made by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the United States Patent and Trademark Office.

5. ☐ Other:

The filing date will be the date of receipt of the items required above unless otherwise indicated. Any assertions that the items required above were submitted, or explaining the delay in supplying the omitted items, must be by a petition directed to the attention of the Office of the Assistant Commissioner for Patents. Any such petition must be accompanied by the $_____ petition fee (37 CFR 1.17(i)(1)). If the petition states that the application is complete, a request for refund of the petition fee may be included in the petition.

All of the items noted above must be submitted within **TWO MONTHS** of the date of this notice, or the application will be returned upon request or otherwise disposed of.

Direct the response and any questions about this notice to, Attention: Application Processing Division, Special Processing and Correspondence Branch.

A copy of this notice MUST be returned with the response.

Application Processing Division
(703) 308-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MR. RONALD B/ SEFRNA
SEFRNA & ASSOCIATES
505 SOUTH BOIS D'ARC
P.O. BOX 567
TYLER, TX 75710-0567

COPY MAILED

NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Todd L. Foret	:	
Application No. 10/196,466	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. 02SAPAT05	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 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, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 6, 2003.

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

The application file is being forwarded to Technology Center AU 1753.

Wan Laymon
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

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Patent No. 6,755,401 Issued: June 29, 2004 Application No. 10/196,505 Filed: July 15, 2002 Attorney Docket Number: KASAP019	DECISION GRANTING PETITION

This is a decision on the petition filed July 30, 2004 under 37 CFR 1.181 requesting a correction to the patent, which is treated under 37 CFR 1.182, as a request to reprint the Letters Patent.

A review of the file reveals that on November 28, 2003, a part (specification, abstract, claims and drawings) of the parent application 10/159,865, (filed May 31, 2002 and issued into Patent No. 6,523,813 on February 23, 2003), was filed in response to a non-Final Office Action mailed August 27, 2003. Petitioner argues that the instant patent was printed with the specification, abstract, claims and drawings from the parent versus the specification, abstract, claims and drawings filed upon application on July 15, 2002.

The Examiner advises that the correct specification, drawings, claims and abstract were the originally filed papers (filed July 15, 2002) and that there was also an amendment to that specification in the response to the office action filed August 27, 2003 and that the filing of the parent application supplied on November 28, 2003 was not necessary. Nevertheless, the claims that were examined were 1-10, not 1-12 from the parent.

In view thereof, it can't be determined if the error in printing the patent with the specification, abstract, claims and drawings was caused by the USPTO or by the applicant. However, in the interest of justice, the petition under 37 CFR 1.182 to reprint the Letters Patent with the correct specification, abstract, claims and drawings is **GRANTED**.

Therefore, in accordance with the request, the patent will be reprinted with the specification, abstract, claims and drawings filed July 15, 2002 as amended.

Petitioner is advised thought that it is the practice of the U.S. Patent and Trademark

Office (USPTO) to issue a certificate of correction to correct an error on the part of an applicant. Note 37 CFR 1.323 and MPEP 1481 (35 U.S.C 255), which states:

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

In view of the above, and since the desired correction can not be effected by way of a Certificate of Correction, it is necessary to reprint the Letters Patent.

The file is being forwarded to the Certificates of Correction Branch <u>for reprinting of the Letters Patent.</u>

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

Pet. Dec.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: JUL - 1 2004

DWW
Paper No. ____

In re Application of
Lipian, John-Henry et al.
Serial No.: 10/196,525
Filed: July 16, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: CATALYST AND METHODS FOR POLYMERIZING CYCLOOLEFINS

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 PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED) filed May 20, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the names of John-Henry Lipian, Larry F. Rhodes, Andrew Bell, Richard A. Mimna, John C. Fondran, Saikumar Jayaraman, April D. Hennis, Christine N. Elia, Jennifer D. Polley and Ayusman Sen 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.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Nestor W. Shust
Hudak, Shunk & Farine Co. L.P.A.
2020 Front Street
Suit 307
Cuyahoga Falls, OH 44221

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
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OCT 0 4 2004
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JUL - 7 2004
HUDAK, SHUNK & FARINE

EM-1980045B

Mailed: JUL - 1 2004

DWW
Paper No. ____

In re Application of
Lipian, John-Henry et al.
Serial No.: 10/196,525
Filed: July 16, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: CATALYST AND METHODS FOR POLYMERIZING CYCLOOLEFINS

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 PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED) filed May 20, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the names of John-Henry Lipian, Larry F. Rhodes, Andrew Bell, Richard A. Mimna, John C. Fondran, Saikumar Jayaraman, April D. Hennis, Christine N. Elia, Jennifer D. Polley and Ayusman Sen 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.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Nestor W. Shust
Hudak, Shunk & Farine Co. L.P.A.
2020 Front Street
Suit 307
Cuyahoga Falls, OH 44221

OIPE
OCT 0 4 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	John-Henry Lipian et al.	Examiner:	W. K. Cheung
Serial No.:	10/196,525	Group Art Unit:	1713
Filed:	July 16, 2002	Date:	June 4, 2004

FOR: CATALYST AND METHODS FOR POLYMERIZING CYCLOOLEFINS

Mail Stop ISSUE FEE
Commission for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

The undersigned hereby certifies that the attached **ISSUE FEE TRANSMITTAL-PART B, STATEMENT, COPY OF "DECISION ON PETITION UNDER 37 CFR 1.48(b)" AND CHECK NO. 15537 FOR $1,648.00** were mailed to the Mail Stop ISSUE FEE, Commissioner for Patents, Alexandria, VA 22313-1450, with sufficient first-class postage, no special handling, on September 30, 2004, before 5:00 PM, thereby ensuring that such document(s) will be in the hands of the U.S. Postal Service by the close of business this day.

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. L.P.A.

Joyce M. Spencer

Joyce M. Spencer

2020 Front St., Suite 307
Cuyahoga Falls, OH 44221
330-535-2220

Attorney Docket No. 1980045B

PLEASE NOTE THAT THE INVENTORSHIP OF THIS PATENT APPLICATION HAS CHANGED AND HAS BEEN GRANTED PER THE ATTACHED "DECISION ON PETITION UNDER 37 CFR 1.48(B)". THE PATENT SHOULD ISSUE ONLY IN THE NAME OF:

BRIAN L. GOODALL

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 10, 2008

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.:/10/196545/7136792

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

[X] 1 **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Kamini Shah/ 2
SPE AU 2128
6/17/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/3/10

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/196551 Patent No.: 6779673 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Sue A Weaver 4/2/10

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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ARENT FAX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Yoshiaki Watanabe et al	:	
Application No. 10/196,558	:	DECISION GRANTING PETITION
Filed: July 17, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 107389-00001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2006, 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 August 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the filing of a continuing application (No. 11/289,302, filed November 30, 2005); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, this will be construed as a request to expressly abandon this application in favor of the granting of a filing date to the continuing application. Accordingly, this application is revived solely for the purpose

of continuity with continuing Application No. 11/289,301. As continuity has been established by the revival of this application, this application is again abandoned in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

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 $120 extension of time submitted with the petition on April 6, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thelen Reid & Priest LLP
David B. Ritchie
P.O. Box 640640
San Jose CA 95164-0640

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Pedro GREGORIO et al :
Application No. 10/196,563 :
Filed: July 15, 2002 :
Attorney Docket No. IMMR-0137 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee in a timely manner in reply to the Notice of Allowance mailed February 9, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 10, 2005.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

The application file is being referred to the Office of Patent Publication via TC Art Unit 3714 for appropriate action on the amendment under 37 CFR 1.312 filed concurrently with the present petition.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 24, 2006

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10196571 Patent No.: 6,866,881

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: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1799
Art Unit

#6
DW

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

JUL 29 2003

David G. Macrae
9975 Wadsworth Parkway
K2-249
Westminister CO 80021

MAILED
JUL 29 2003
OFFICE OF THE DIRECTOR
TC 3600

Paper No. 6

In re application of:
David G. Macrae
Application No. 10/196,583
Filed: July 16, 2002
For: Business Management Process

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on April 11, 2003 by Gordon R. Lindeen III, 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 of July 22, 2003.

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

SNM/ekn: 07/23/03

cc: Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, Ca 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 11 2006

OFFICE OF PETITIONS

In re Patent No. 7,052,694	:	
Pease et al.	:	
Issue Date: May 30, 2006	:	LETTER REGARDING
Application No. 10/196,601	:	PATENT TERM ADJUSTMENT
Filed: July 16, 2002	:	
Atty Docket No. 07039-391001	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT filed August 2, 2006, pursuant to patentee's duty of good faith and candor. Patentees disclose that the patent term adjustment indicated in the patent may be longer than appropriate.

The request for correction of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136.

On May 30, 2006, the above-identified application matured into U.S. Patent No. 7,052,694, with a revised Patent Term Adjustment of 135 days. It appears that patentees are pointing to the calculation of 200 days of PTO delay as being calculated for issuance beyond three years from the filing of the application and as an error.

Patentees' attempt at candor is appreciated. However, patentees have incorrectly evaluated the 200-day period of adjustment. This period of adjustment was properly entered pursuant to 37 CFR 1.702(a)(4) and 1.703(a)(6). As of July 11, 2005, the Issue Fee payment had been made and all outstanding requirements had been met within the meaning of § 1.702(a)(4). However, the patent did not issue until May 30, 2006, four months and 200

days later. Thus, a period of adjustment of 200 days was entered pursuant to § 1.703(a)(6).

A review of the record confirms that the application was not entitled to an additional period of adjustment for Office delay in issuing the patent pursuant to § 1.702(b). It is noted that the instant patent issued 3 years and 318 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, 318 days attributable to the delay in the issuance of the patent overlaps with the period of delay totaling 347 days attributable to grounds specified in §§ 1.702(a)(1), (2) and (4). Thus, the period of adjustment cannot exceed the actual number of days of delay of 347 days.

In view thereof, the patent properly issued with a revised patent term adjustment of 135 days (347 days of Office delay reduced by 212 days of applicant delay).

To the extent that this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KENNETH G LEMKE
FOLEY & LARDNER
777 EAST WISCONSIN AVE
MILWAUKEE WI 53202-5367

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OFFICE OF PETITIONS

In re Application Carol S. Luedecke Application No. 10/196,627 Filed: July 15, 2002 Attorney Docket No. 023720-0257	DECISION REGARDING PATENT TERM ADJUSTMENT

This decision is in response to the paper titled "PATENT TERM ADJUSTMENT", filed February 25, 2005, in which applicant notes that the patent term adjustment should be zero (0) days.

The request is **DISMISSED**.

On November 30, 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 one hundred twelve (112) days. On February 25, 2005, Applicant timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA is zero (0) days.

---

[1] Applicant filed the application for patent term adjustment on the same date as he filed the issue fee.

Applicant asserts entitlement to a patent term adjustment of zero (0) days on the basis that applicant delay should be assessed for the filing of papers after the mailing of the Notice of Allowance.

A review of the application confirms that the correct determination of patent term adjustment at the time of mailing of the Notice of Allowance is one hundred twelve (112) days (187 days of PTO delay, reduced by 75 (61 + 14) days of applicant delay). Any further applicant delay resulting from the filing of papers after the Notice of Allowance should be reflected in the patent term adjustment as indicated on the patent.

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

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

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

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NOV 2 4 2003

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ALEXANDRIA, VA 22313-1450
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#6

CALVIN L. NEUMANN
1224 HUNTINGDON ROAD
WINSTON-SALEM, NC 27104

In re Application of	:	
Calvin L. Neumann	:	
Serial No.: 10/196,630	:	DECISION ON PETITION
Filed: July 16, 2002	:	
For: Vein Retaining Device	:	

This is in response to applicants' petition filed July 30, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(a), based on applicant's health condition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV with supporting documentation. Therefore the petition is hereby **GRANTED**.

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

Should there be any questions with regard to this letter please contact John E. Kittle by letter addressed to the Director, Technology Center 3700/2900, 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

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OFFICE OF PETITIONS

BARNES & THORNBURG
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

In re Application of
Sproatt, Eichhorn, Clark & Stahly
Application No.: 10/196,640
Filed: July 16, 2002
Attorney Docket No.: 262600-82543
For: CLUTCH ASSEMBLY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.47(A) AND (B)," filed November 20, 2002 (certificate of mailing date November 15, 2002). The petition will be treated under 37 CFR 1.47(a).

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 16, 2002 without an executed oath or declaration. Accordingly, on September 18, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, the present petition was filed. The petition is accompanied by the petition fee, the surcharge, a statement of facts from Mr. Sproatt, and a declaration executed by joint inventor Sproatt, Eichhorn, and Stahly. Mr. Sproatt signed the declaration twice -- once for himself and another time for non-signing inventor Clark on behalf of himself, as co-inventor, and in his capacity as President of Days Corporation. Days Corporation has a proprietary interest in the invention. In his declaration/ statement of facts, Mr. Cooper, attorney of record for the above-identified application, declares that he contacted Mr. Clark's attorney, Mr. Fountain, about obtaining Mr. Clark's cooperation in filing the above-identified application. Mr. Fountain refused to join in the filing of the application on behalf of Mr. Clark in a letter that is an exhibit to the declaration.

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 (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration fails to comply for two reasons.

First, petitioners are reminded that when one joint inventor signs, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b). In this instance, three of the four joint inventors signed the declaration. Therefore, Mr. Sproatt cannot sign the declaration in the capacity of President of Days Corporation.

The signing inventor must sign the declaration for the application of behalf of themselves and on behalf on the non-signing inventor. The declaration will be acceptable if the signing inventors sign in their signature blocks AND (1) the signature block of the non-signing inventor is left blank **OR**(2) the signing inventors sign a document that states they are all signing on behalf of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(a) applicant on behalf of Mr. Clark is REQUIRED. See MPEP 409.03(a).

Second, the two declarations submitted with the present petition are different with respect to identifying the inventors. The first declaration identifies three joint inventors on page 3. The second declaration identifies only the fourth joint inventor on page 3 without listing the other joint inventors.

The new declaration should set forth all of the joint inventors on the same page or contain page numbers for multiple sheets -- ex: 1/3; 2/3; 3/3 --to ensure that each named inventor is aware of the other named inventors 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 required. See MPEP 409.03(a).

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
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Paper No. 10

BARNES & THORNBURG
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

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OFFICE OF PETITIONS

In re Application of
Sproatt, Eichhorn, Stahly & Clark
Application No.: 10/196,640
Filed: July 16, 2002
Attorney Docket No.: 262600-82543
For: CLUTCH ASSEMBLY

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed April 7, 2003 (certificate of mailing date April 2, 2003).

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the nonsigning inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Mr. Cooper, attorney of record for the above-identified application, declares that he contacted Mr. Clark's attorney, Mr. Fountain, about obtaining Mr. Clark's cooperation in filing the above-identified application. Mr. Fountain refused to join in the filing of the application on behalf of Mr. Clark in a letter that is an exhibit to 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 nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Ashok Bhardwaj
Tata Tea Inc.
1001 W. Martin Luther Blvd
Plant City FL 33566

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
Brocco et al. :
Application No. 10/196,645 :
Filed: July 16, 2002 :
Attorney Docket No. 01-432 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 21, 2006, to change the name of the fourth named inventor. This is also a petition under 37 CFR 1.137(b), filed March 8, 2006, to revive the above-identified application.

As to the petition under 37 CFR 1.182, petitioners have satisfied the requirements set forth in MPEP 605.04(c) to change an inventor's name after the filing of an application. Accordingly, the petition under 37 CFR 1.182 is **granted**. The Office records have been corrected to reflect the change of the name of the fourth inventor from "ALI ULUDOGAN" to - - BERFAN K. KOCHGIRI- - .

As to the petition under 37 CFR 1.137(b), the Office mailed a Notice of Allowance and Fee(s) Due on December 1, 2005, which set a three-month statutory period to pay the issue and publication fees. The application became abandoned on March 2, 2006, for failure to submit a timely reply to the outstanding Notice of Allowance. Petitioners have met the requirements under 37 CFR 1.137(b). Accordingly, the petition to revive the above-identified application is **granted.**

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/196,649	07/16/2002	Yong-Qing Li	5218-99	6099

20792 7590 11/26/2004
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER
GEISEL, KARA E

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 11/26/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 111904

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of:	:	
LI et al.	:	PETITION FOR CORRECTION OF
Serial No.: 10/196,649	:	INVENTORSHIP
Filed: July 16, 2002	:	UNDER 37 CFR § 1.48 (a)
Attorney Docket No.: 5218-99	:	

This is a decision on the petition filed October 13, 2001 to correct inventorship under 37 CFR 1.48 (a).

The petition is granted.

In view of the papers received October 18, 2004 (certification of mailing October 13, 2004), it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the names:

Changan Xie, Greenville NC

A corrected filing receipt will be issued, and the records of the Office will be corrected to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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
WILKINS, Thea A. et al.
Application No. 10/196,656
Filed: July 15, 2002
Attorney Docket No. **02307O-089200US**

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 Page
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.

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

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OFFICE OF PETITIONS

Patent No. 7,075,582	:	LETTER REGARDING
Issue Date: July 11, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/196,672	:	AND
Filed: July 15, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. PAZ-148CP	:	CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed August 23, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees disclose that the Patent Term Adjustment of three hundred twenty-eight (328) days printed on the face of the patent should be corrected to two hundred thirty-six (236) days.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-six (236) days.

On July 11, 2006, this application matured into U.S. Patent No. 7,075,582, with a revised patent term adjustment of 328 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that an additional period of reduction of 92 days is warranted. Pursuant to § 1.704(b), a period of reduction of 92 days should have been entered for applicant delay in filing a reply to the NOTICE TO COMPLY WITH

REQUIREMENTS FOR PATENT APPLICATIONS mailed December 18, 2002. Applicants took until June 18, 2003 to file a response, three months and 92 days.

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred thirty-six (236) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED THIRTY-SIX (236)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,075,582 B2

DATED : July 11, 2006

INVENTOR(S) : Alekshun 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 (328) days

Delete the phrase "by 328" and insert – by 236 days--

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.

UNION CARBIDE CHEMICALS AND PLASTICDS
TECHNOLOGY CORPORATION
P.O. BOX 1967
MIDLAND, MI 48674

COPY MAILED
APR 0 7 2004
OFFICE OF PETITIONS

In re Application of :
Burkhard Eric Wagner, et al. :
Application No. 10/196,682 : ON PETITION
Filed: July 15, 2002 :
Attorney Docket No. 43225.61978USPT :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 24, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

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

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), 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.

The application file is being forwarded to Technology Center 1700, Art Unit 1755 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

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

cc: Douglas W. Miller
Southwest Patent Services
510 Bering Drive, Suite 300
Houston, TX 77057

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

D. Peter Hochberg Co. L.P.A.
1940 East 6th Street
Cleveland, OH 44114

COPY MAILED

MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of
Nicholas F. D'Antonio.
Application No. 10/196,706
Filed: July 15, 2002
For: SUCTION REGULATOR AND FLUID DRAINAGE SYSTEM

: Letter Vacating
: Notice of Abandonment

The above-identified application was forwarded to the undersigned to review the abandoned status of the application.

The Notice of Abandonment mailed on January 23, 2003 and the decision granting the petition for express abandonment to avoid publication under 37 CFR 1.138(c) mailed on January 2, 2003 are **vacated**.

The above-identified application will be returned to pending status.

On December 19, 2002, applicant filed a petition for express abandonment to avoid publication of the above-identified application under 37 CFR 1.138(c). Even though the petition was received by the Office more than four weeks prior to the projected date of publication, the Office could not stop the publication of the above-identified application because the data for the publication of the application was exported on December 5, 2002 to the printer.

On February 6, 2003, the above-identified application was published as U.S. patent application publication No. 2003/0028175 A1.

37 CFR 1.138(c) provides:

> An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicant should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

37 CFR 1.138(c) was added in October of 2000, and, when it was added to title 37, the Office stated:

> The petition will be granted when it is recognized in sufficient time to avoid

publication of application information and will be denied when it is not recognized in sufficient time to avoid publication of application information. This will avert the situation in which an applicant files a letter of express abandonment to avoid publication, the letter of express abandonment is not recognized in sufficient time to avoid publication, upon publication the applicant wishes to rescind the letter of express abandonment, and the Office cannot revive the application (once the letter of express abandonment is recognized) because the application was expressly and intentionally abandoned by the applicant. See Changes to Implement Eighteen-Month Publication of Patent Applications; Final Rule, 65 Fed. Reg. 57024, 57034 (September 20, 2001).

In view of the fact that the above-identified application was published, the petition for express abandonment must not have been made in sufficient time to avoid publication. Since the Office has stated that if publication cannot be avoided, the petition for express abandonment will not be granted, the granting of the petition for express abandonment was improper and must be vacated. The petition filed on December 19, 2002 is hereby dismissed.

After this letter is mailed, the above-identified application will be returned Art Unit 3761 for further processing consistent with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)308-3858.

Joni Y. Chang

Joni Y. Chang
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Policy and Projects

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
10/196,706	07/15/2002	Nicholas F. D'Antonio	DA0332US

CONFIRMATION NO.
6405

PAPER No. 8
MAILED 1/2/03 AK

D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND OH 44114

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c) that was filed on December 19, 2002, for express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4284.

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

Rev. 10/01

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 10 2007

OFFICE OF PETITIONS

CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO TX 75024

In re Application of	:
Ramaswamy, et al.	: DECISION ON PETITION
Application No. 10/196,725	:
Filed: July 16, 2002	:
Atty. Dkt. No.: 058250-0002	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 29, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned for failure to timely submit an appeal brief in response to the Notice of Appeal filed July 27, 2007. Notice of Abandonment was mailed November 2, 2006.

Petitioners allege an RCE and petition for extension of time were timely submitted January 16, 2007. The reply has been located in the application file.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 1700 for processing of the RCE submitted January 16, 2007.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SEP 10 2007

OFFICE OF PETITIONS

CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO TX 75024

In re Application of :
Ramaswamy, et al. : DECISION ON PETITION
Application No. 10/196,725 :
Filed: July 16, 2002 :
Atty. Dkt. No.: 058250-0002 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 29, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed January 24, 2006. The non-final Office action set a three month statutory period of time for reply. Notice of Abandonment was mailed November 2, 2006.

Petitioners allege a response to the final Office action was timely filed July 24, 2006. Petitioners have included a copy of the reply purportedly timely filed. The reply bears a certificate of mailing date of July 24, 2006 in accordance with 37 CFR 1.8 and is thus deemed to have been timely submitted.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 1700 for processing of the RCE submitted January 16, 2007.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

OKAMOTO & BENEDICTO LLP
PO BOX 641330
SAN JOSE CA 95164

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APR 15 2003

OFFICE OF PETITIONS

In re Application of
Yang, et al.
Application No. 10/196,739
Filed: July 15, 2002
Attorney Docket No. 10006.001300

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 26, 2002 (Certificate of Mailing dated December 12, 2002).

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

The above-identified application was filed on July 15, 2002, without, *inter alia*, an executed oath or declaration. Accordingly, on August 27, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration signed by joint inventors Tser-Yuan Brian Yang, Edward R. Ratner, and David B. Kita, but lacking a signature from joint inventor Adityo Prakash.

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

On petition, attorney James K. Okamoto, included, *inter alia*, a copy of a cover letter, dated September 10, 2002, to Sanford Kinglsley, attorney for Prakash, transmitting the application papers. In addition, Okamoto stated that in a telephone conversation with Kingsley and Prakash on October 3, 2002, Prakash said that he would not sign the declaration.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2600, Group Art Unit 2613, for docketing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADITYO PRAKASH
600 MARLIN CT
REDWOOD SHORES CA 94065

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APR 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Tser-Yuan Brian Yang, Edward R. :
Ratner, Adityo Prakash, and David B. :
Kita : LETTER
Application No. 10/196,739 :
Filed: December 26, 2002
Title: HIERARCHICAL SEGMENT-BASED
MOTION VECTOR ENCODING AND DECODING

Dear Mr. Prakash:

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

James K Okamoto
Okamoto & Benedicto LLP
Po Box 641330
San Jose CA 95164
(408)436-2110

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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GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

COPY MAILED
OCT 28 2008

In re Application of	:	
Audrey Goddard et al	:	
Application No. 10/196,744	:	DECISION ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. P3430R1C353	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed October 18, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 05 2009

OFFICE OF PETITIONS

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

In re Patent No. 7,465,786	:	
Issued: December 16, 2008	:	
Application No. 10/196,744	:	PATENT TERM ADJUSTMENT
Filed: July 16, 2002	:	
Dkt. No.: GNE-3430-R1C353	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed February 4, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Pat. No. 7,465,786 on December 16, 2008. The patent issued with a PTA 111 days. The 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 111 days to 493 days.

Patentees request reconsideration 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 contend 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.

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 submit that the total period of adjustment for Office delay is 1,041 days (the sum of the period of three year delay less time consumed by continued examination (382 days) and the period of examination delay (659 days). As such, patentees assert entitlement to a patent term adjustment of 493 days (382 days *plus* 659 days *less* 548 days of applicant delay).

At the time of filing of the request for continued examination, the Office agrees that the application was pending three years and 382 days; over three year time ceased accruing upon submission of a request for continued examination on August 2, 2006. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 659 days is correct. Further, any adjustment is properly reduced 548 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

At issue is whether patentees should accrue an additional 382 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 659 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 382 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].

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.

---

[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).

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 16, 2002, to the date the patent issued on December 16, 2008. Prior to the issuance of the patent, 659 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 August 2, 2006, the application had been pending three years and 282 days; over three year time ceased accruing upon the filing of a request for continued examination on August 2, 2006. However, the Office did not delay 659 days and then delay an additional 382 days. Accordingly, 659 days of patent term adjustment (not 277 days and 658 days) was properly entered because the entire period of delay of 382 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 659 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The required patent term adjustment application fee of $200.00 has been charged to patentees' deposit account, as authorized. The fee requirement is set forth at 3 7CFR 1.18(e). The application fee will not be refunded as submission of the application fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 08, 2008

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/196751 Patent No.: 7309771 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

[redacted]

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.

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

Comments: _____

_____

_____ **/Manjunath Rao/** **1647**

SPE **Art Unit**

PAGE 2/2 * RCVD AT 4/9/2008 10:02:24 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Fleshner-Barak :
Application No. 10/196,766 : DECISION GRANTING PETITION
Filed: July 17, 2002 :
Attorney Docket No. 1662/57002 :

This is a decision on the petition filed September 13, 2002, to accord the above-identified application a filing date of July 17, 2002.

On July 17, 2002, the application was deposited.

On August 19, 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 the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

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

The Notice mailed August 19, 2002, is hereby vacated.

A petition fee has not been charged to petitioner's deposit account.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 17, 2002, using the application papers filed on July 17, 2002. The Office of Initial Patent Examination will also mail a Notice of Missing Parts requiring an oath or declaration and a surcharge for its late filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD
TOWSON, MD 21286

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Donald J. Segien Jr. :
Application No. 10/196,769 :
Filed: July 17, 2002 :
Attorney Docket No. 6736-000013 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 10, 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 May 12, 2004 (certificate of mailing date May 10, 2004), did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 7, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 11, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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

This matter is being referred to Technology Center 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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RALEIGH NC 27627

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Nguyen, et al.
Application No. 10/196,771
Filed: July 17, 2002
Attorney Docket No. 5051.536
For: HIGH EFFICIENCY GERMLINE TRANSFORMATION SYSTEM

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 26, 2002 (certificate of mailing date December 20, 2002), and the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on December 26, 2002 (certificate of mailing date December 20, 2002).

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

The petition under 37 CFR 1.28(c) is **GRANTED**.

Petitioners have shown that the non-signing inventor, Dr. Helmer, has refused to join in the filing of the above-identified application because she is currently employed by the USPTO and cannot execute the declaration due to 35 USC 4, which prohibits a USPTO employee from applying for patent. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Pursuant to petitioners' authorization, deposit account no. 50-0220 will be charged the $130.00 fee associated with filing a petition under 37 CFR 1.47(a).

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.

Regarding the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on December 26, 2002 (certificate of mailing date December 20, 2002), the deficiency payment of $388.00 is hereby accepted.

Small entity status will no longer apply.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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In re Application of Michael C. Mountz Application No. 10/196,772 Filed: July 15, 2002 Attorney Docket No. 05921.P001	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

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

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
99 ALMADEN BLVD., SUITE 520
SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Stephen McFarland	:	
Application No. 10/196,775	:	DECISION ON REQUEST
Filed: July 16, 2002	:	TO WITHDRAW
Attorney Docket No. 2046.002US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to Andrea L. Marais and all the attorneys/agents of record associated with Customer No. 21186 was revoked by the assignee of the patent application on May 15, 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.

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

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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)
6,591,544	2003-07-15	10196783	2002-07-17	6700

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	/Maurice E. Gauthier/	Date (YYYY-MM-DD)	2007-09-06
Name	Maurice E. Gauthier	Registration Number	20798

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. 6591544
Issue Date: July 15,2003
Application No. 10196783
Filed: July 17,2002
Attorney Docket No. 6770

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

This is a decision on the electronic petition, filed September 6,2007 ,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 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Mohaban et al.	:	
Application No. 10/196796	:	DECISION DISMISSING PETITIONS
Filed: 07/16/2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1014-142US01	:	

This is a decision on the petition filed on 1 May, 2007 (certificate of mailing date 27 April, 2007), which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's

filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Additionally, the reference required by 37 CFR 1.78(a)(2) or (a)(5) must be included in an ADS or the specification must contain or be amended to contain such reference in the first sentence following the title. The amendment submitted does not amend the specification to contain the reference in the first sentence following the title.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: SHUMAKER & SIEFFERT, P.A.
1625 SEASONS PARKWAY, SUITE 300
WOODBURY MN 55125

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OFFICE OF PETITIONS

In re Application of	:	
Mohaban et al.	:	
Application No. 10/196796	:	DECISION DISMISSING PETITIONS
Filed: 07/16/2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1014-142US01	:	

This is a decision on the renewed petition filed on 24 August, 2007, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is again **DISMISSED**

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

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

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

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

The petition does not comply with item (1).

Upon further review, the petition must be dismissed because the amendment states, in part, that this application is a continuation-in-part of Application No. 11/169,511, filed on 28 June, 2005. A claim of benefit may only be made to a ***prior-filed*** application, and the application to which

benefit is claimed was not filed prior to the filing of the subject application. There is no provision in the rules to claim benefit of an application which was not filed prior to the filing of the application in which the benefit claim is made. In order to claim benefit of Application No. 11/169,511, the subject application would have had to have been filed after Application No. 11/169,511. As such, the subject application is not entitled to claim the benefit of Application No. 11/169,511, filed on 28 June, 2005.

If petitioners wish to claim benefit of the present application in the subsequently filed application, a claim of benefit to the subject application must be made in the subsequently filed application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either a supplemental Application Data Sheet (ADS) or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. Petitioners are further reminded that any supplemental ADS must be signed in accordance with 37 CFR 1.33(b).

The duplicate petition fee submitted with the present renewed petition is unnecessary and will be credited to counsel's deposit account.

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

By mail: Mail Stop PETITIONS
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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

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: SHUMAKER & SIEFFERT, P.A.
1625 SEASONS PARKWAY, SUITE 300
WOODBURY MN 55125

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OFFICE OF PETITIONS

In re Application of
Mohaban et al.
Application No. 10/196796
Filed: 07/16/2002
Attorney Docket No. 1014-142US01

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

This is a decision on the renewed petition filed on March 13, 2008, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application 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 the above requirements having been satisfied, the late claim for benefit of 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.

The duplicate petition fee submitted with the present renewed petition is unnecessary and will be credited to counsel's deposit account.

Any questions concerning this matter 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 2616 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/196,796	07/16/2002	2616	980	1014-142US01	46	6

CONFIRMATION NO. 6532

CORRECTED FILING RECEIPT

72689
SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

OC000000029320858

Date Mailed: 04/15/2008

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)

Shai Mohaban, Sunnyvale, CA;
Benjamin J. Getz, Ramat Ha-Sharon, ISRAEL;
Itzhak Parnafes, Palo Alto, CA;
Opher Kahane, San Francisco, CA;

Power of Attorney: The patent practitioners associated with Customer Number 28863

Domestic Priority data as claimed by applicant

This application is a CIP of 09/775,274 01/31/2001 PAT 7,002,993
which claims benefit of 60/226,207 08/18/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/196,796**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods and apparatus providing an overlay network for voice over internet protocol applications

Preliminary Class

370

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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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Shai Mohaban	: DECISION ON REQUEST FOR
Patent Number	: 7586899	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/196,796	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1575** 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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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:
Schnelle, et al.	:
Application No. 10/196,802	: DECISION ON PETITIONS
Filed: July 17, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 124776-05146040	: AND 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the amendment filed with the petition. The petition will also be treated under 37 CFR 1.55(c) as a request for acceptance of an unintentionally delayed benefit claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of Australian application no. PO4892, filed January 31, 1997.

The petitions are **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(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)(i) 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 or an intermediate nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition does not satisfy items (1) and (2) above.

With respect to (1), see the discussion regarding incorporation by reference in the 37 CFR 1.78(a)(3) section of this decision.

With respect to (2), the reference to the Australian application is only listed in the amendment to the specification. The reference to the Australian application must be supplied in an application data sheet in accordance with 37 CFR 1.76 or in the oath or declaration.

It appears that petitioner's best choice would be to file a renewed petition under both 37 CFR 1.78(a)(3) and 1.55(c) with an Application Data Sheet listing the applications for which benefit of priority is desired. No incorporation by reference statement will be permitted.

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

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

By hand: Customer Service Window
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 Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Schnelle, et al.	:	
Application No. 10/196,802	:	ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. 124776-05146040	:	

This is a decision on the correspondence entitled, "REQUEST FOR WITHDRAWAL OF PREVIOUSLY FILED PETITION UNDER 37 CFR 1.78(a)(3). The petition will be treated under 37 CFR 1.181, to avoid charging further petition fees.

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

The March 2, 2006 petition was treated on the merits on April 5, 2006. It is not possible to withdraw the petition or expunge it. Assuming petitioners submitted the instant correspondence in order to inform the Office that a further petition on this matter would not be filed, it was not necessary. Simply failing to file a renewed petition is sufficient because the application is in active status. Prosecution will continue.

The application is being returned to Technology Center AU 2178 to await response to the May 30, 2006 final Office action

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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NOV 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Michaelsen et al.	:	
Application No. 10/196,805	:	DECISION GRANTING
Filed: July 17, 2002	:	PETITION
Attorney Docket No. NI 145	:	

This is a decision on the petition filed October 2, 2002, to establish that page 11 of the specification was part of the originally filed application.

On July 17, 2002, the application was filed.

On August 21, 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 17, 2002, and advising applicants that page 11 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 11 was deposited on July 17, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification including 13 pages with 12 claims, 1 drawing" on July 17, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 11.

Upon review of the record, page 11, deposited on July 17, 2002, has not been located. However, the evidence is convincing that the application papers deposited on July 17, 2002, included page 11, and that page 11 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 11 submitted with the petition will be used for examination purposes.

The Office requests that future postcard receipts include number of sheets of drawings on a separate line from number of pages of specification. This will preclude the Office of Initial Patent Examination from accidentally interpreting the line, "Specification including 13 pages with 12 claims, 1 drawing" as "Specification 13 pages including 1 page of drawing."

No petition fee is required and none has been charged. OR The petition fee will be refunded.

The Notice mailed August 21, 2002, was sent in error and is hereby vacated.

---

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 17, 2002 using the application papers filed on July 17, 2002, and the copy of page 11 of the specification filed on October 2, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Abelman Frayne & Schwab
150 East 42nd Street
New York, NY 10017-5612

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MAR 01 2004
OFFICE OF PETITIONS

In re Application of	:	
Arnold L. Lewis et al.	:	
Application No. 10/196,821	:	ON PETITION
Filed: July 16, 2002	:	
Attorney Docket No. 205,782	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 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 May 6, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on August 7, 2003.

The application file is being forwarded to Technology Center Au 1753 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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NOV 07 2002

OFFICE OF PETITIONS

In re Application of
Bolduc, et al.
Application No. 10/196,847
Filed: July 17, 2002
Attorney Docket No. HRT-0303

DECISION ON PETITION

This is a decision on the petition filed September 30, 2002, which is being treated as a petition under 37 CFR § 1.53(e)(2)[1] to accord the above-identified application a filing date of July 17, 2002.

Application papers in the above-identified application were filed on July 17, 2002. However, on August 23, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[2]

In reply, applicants timely filed the instant petition. Applicants assert that they provided a complete set of drawings when the application was filed on July 17, 2002. In support thereof, petitioners submit *inter alia* a copy of their return postcard receipt, itemizing "☒DRAWINGS 17 sheets formal" among the enclosures, bearing a USPTO date-stamp of July 17, 2002 with application No. assignment of 10/196,847, and lacking any notation of non-receipt of any item listed. Included with the petition is a copy of the seventeen (17) sheets of drawings as originally filed

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on July 17, 2002 included seventeen (17) sheets of formal drawings, and thus, is entitled to a filing date of July 17, 2002.

---

[1] §1.53(e)(2) provides that "Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph. ... In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected."

[2] See 35 U.S.C. 111(a)(4).

AVAILABLE COPY

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. The fee, though authorized, will not be charged to petitioner's Deposit Account.

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

- further processing with a filing date of July 17, 2002, using the application papers received in the Office on that date and the seventeen (17) sheets of drawings resubmitted on petition filed September 30, 2002;
- indication in Office records that seventeen (17) sheets of drawings were present on filing.

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

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

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

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Feb. 2, 2006

TO SPE OF : ART UNIT 3682 (*Richard Ridley*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,976

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the Inventor and Examiner's Amendment re: now claim 1. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

THE REQUESTED CHANGE TO CLAIM 1 IS NOT APPROVED. THE FIRST OCCURRENCE OF THE TERM "HOUSING" IN THE CLAIM OCCURS IN COLUMN 8, LINE 4. THE CLAIM IS CURRENTLY CORRECT IN READING "... wherein a housing ..."

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER

SPE — 3682 **Art Unit**

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1425 K STREET, N.W. 11TH FLOOR
WASHINGTON, DC 20005-3500

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OCT 2 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Hongyong Zhang et al	:
Application No. 10/196,878	:
Filed: July 15, 2002	:
Attorney Docket No. 07977-179003	:

This is a decision on the petition, filed October 22, 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 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]

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

This matter is being referred to Technology Center AU 2871 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

---

[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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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hongyong Zhang et al :
Application No. 10/196,878 :
Filed: July 15, 2002 :
Attorney Docket No. 07977-179003 :

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 February 23, 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 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper 9

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JUN 1 6 2003

OFFICE OF PETITIONS

Robert A. Hampton
6008 Moorhaven Dr.
Louisville, KY 40219

In re Application of
Robert Hampton
Application No.10/196,906
Filed: July 18, 2002
Attorney Docket No. Case 9
Title of Invention: FISHERMAN'S HELPER

DECISION ON PETITION

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

Petitioner has filed a petition to revive based upon a Notice to File Corrected Application Papers which was mailed on November 19, 2002. The Notice required the submission of replacement claim(s) commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121. The Notice set a reply deadline of January 19, 2003. Extensions of time were available under 37 CFR 1.136(a).

The petition is **dismissed as moot**.

A review of the record shows that a timely submission of replacement claims was submitted on December 16, 2002. Hence, a petition to revive is not required.

Petitioner is reminded that the period for reply to the Office Action mailed on May 8, 2003 continues to run.

This application is being forwarded to Technology Center 3600 for further processing of the application.

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

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. 8

SAMUELS, GAUTHIER &
STEVENS, LLP
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Knott, Sr. :
Application No. 10/196,910 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No. 6769 :

This decision concerns the February 12, 2004 petition under 37 CFR 1.137(b).[1]

The petition is **DISMISSED.**

On August 13, 2002, a "Notice to File Corrected Application Papers" was mailed, giving Applicant an extendable 2-month period to submit substitute drawings in compliance with 37 CFR 1.84. No response was filed on or before March 13, 2003,[2] and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on October 14, 2002. The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: **(1) the required reply to the Office action,** unless previously filed; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition lacks items (1), in that, the substitute drawings enclosed with the petition were objected to by the draftsperson (see attached "Notice of Draftsperson's Patent Drawing Review"). The petition is thus dismissed.

A renewed §1.137(b) petition must:

-include proper substitute drawings;

---

1 The law firm name appears to have changed. Counsel should file a request to change the correspondence address for this application such that future correspondence on this application will be addressed to the proper party.

2 An extension of time of up to 5 months is permitted under such notices.

-be filed within **TWO MONTHS** of the mailing date of this decision;[3]

and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review (2/25/04)

---

[3] Extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s). 37 CFR 1.137(e)(1).

UNITED STATES 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

SAMUELS, GAUTHIER &
STEVENS, LLP
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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APR 2 7 2004
OFFICE OF PETITIONS

In re Application of :
Knott, Sr. :
Application No. 10/196,910 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No. 6769 :

This decision concerns the March 31, 2004 renewed petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on October 14, 2002 for failure to timely submit substitute drawings as required by the August 13, 2002 "Notice to File Corrected Application Papers."

The instant petition encloses substitute drawings which have been approved by the draftsperson, and states that the entire delay in filing these drawings was unintentional. In addition, the $665 petition fee (small entity) was paid on February 12, 2004. The petition is thus granted.

The application is now complete.

The file is being forwarded to Technology Center 3600 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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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
10/196,935	07/17/2002	Richard P. Lifton	044574-5113

CONFIRMATION NO. 6100

FORMALITIES LETTER

OC000000008671739

028977
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

Date Mailed: 08/22/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e));
- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

10/29/2002 AWONDAF1 00000010 500310 10196935
01 FC:2051 65.00 CH
Adjustment date: 11/26/2002 MHARMOL
10/29/2002 AWONDAF1 00000010 500310 10196935
01 FC:2051 65.00 CR

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.

Y. G

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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JC106

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/196,935	07/17/2002	Richard P. Lifton	044574-5113

CONFIRMATION NO. 6100

FORMALITIES LETTER

OC000000008671739

028977
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

Date Mailed: 08/22/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
    - drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e));
- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

10/30/2002 MAHMED1 00000073 500310 10196935
01 FC:2051 65.00 CH

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.

Y. G.

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
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 4

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

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NOV 20 2002

OFFICE OF PETITIONS

In re Application of	:	
Miyuki Kodama	:	
Application No. 10/196,944	:	DECISION GRANTING PETITION
Filed: 18 July, 2002	:	
Atty's Docket No. 58647-140	:	

This is a decision on the petition filed on 11 October, 2002, requesting that the above-identified application, including Figure 25 described in the specification, be accorded a filing date of 18 July, 2002.

On 18 July, 2002, the application was filed.

On 15 August, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 18 July, 2002, but that Figure 25 described in the specification appeared to have been omitted.

In response, on 11 October, 2002, the present petition was filed, accompanied by a copy of one (1) sheet of drawings containing Figure 25 as originally filed on 18 July, 2002. Petitioners assert that Figure 25 was filed with the other application papers on 18 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 18 July, 2002, and identifies the application by inventor's name, attorney docket number and invention title and acknowledges receipt, *inter alia*, of 25 pages of Formal Drawings. Petitioners request that the application, including the one (1) sheet of

drawings containing Figure 25, be accorded a filing date of 18 July, 2002.

A review of the record reveals that 24 sheets of drawings, containing Figures 1-21, 22A-B, 23, and 24 are located among the application papers deposited on 18 July, 2002. However, the evidence is convincing that the application papers deposited on 18 July, 2002, included 25 sheets of drawings and that the sheet of drawings containing Figure 25 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 25 as described in the specification, is entitled to a filing date of 18 July, 2002.

The "Notice" mailed on 15 August, 2002, is withdrawn.

In view of the above, the petition is granted. The $130.00 petition fee will be refunded to counsel's deposit account, No. 50-0417 as authorized in the petition.

The application will be processed using the application papers filed on 18 July, 2002, and the copy of Figure 25 of the drawings supplied on 11 October, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 18 July, 2002, using the application papers filed on 18 July, 2002, and the one (1) sheet of drawing containing Figure 25, supplied on 11 October, 2002, and for an indication on the bib-data sheet that 25 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

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

UNITED STATES PATENT 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

DOMINIK J. SCHMIDT
P.O. BOX 20541
STANFORD, CA 94309

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NOV 07 2003
OFFICE OF PETITIONS

In re Application of	:	
DOMINIK J. SCHMIDT	:	
Application No. 10/196,968	:	ON PETITION
Filed: July 17, 2003	:	
Title: LOCAL POSITIONING SYSTEM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed August 6, 2003. Accordingly, this application became abandoned on October 7, 2003.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Kazuho Iesaka	:	
Application No. 10/196,975	:	ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. IES-2-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 18 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 June 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 an amendment; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

The Change of Correspondence Address submitted with petition has been acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to Technology Center 2600, Art Unit 2673.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

ORUM & ROTH
53 W JACKSON BLVD
CHICAGO IL 60604

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of Adams, et al. Application No. 10/197,002 Filed: July 17, 2002 Attorney Docket No. 13183	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed October 21, 2002, which is being treated as a petition 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 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).

The above-identified application was filed on July 17, 2002, without an executed oath or declaration. Accordingly, on August 16, 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 included a Certificate of Mailing dated October 16, 2002. Accompanying the petition was a declaration signed by joint inventor Matthew Thomas Adams, but lacking a signature from joint inventor Douglas Adrian Taylor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort 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. Rule 47 applicant has not met requirement (1) and (2) above.

As to requirement (1), there has been no showing that Taylor was ever presented with the **application papers (specification, claims, drawings, oath or declaration)**. Regarding this, the Manual of Patent Examining Procedure states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.[1]

Here, the petition only establishes that a copy of the declaration was forwarded to Taylor. No mention is made of the specification, claims, and drawings. On renewed petition, Rule 47 applicant must establish that a copy of the application papers were forwarded to Taylor.

As to requirement (2), the declaration is not acceptable because it does not comply with 37 CFR 1.63(a)(3). The declaration submitted does not identify the citizenship of joint inventor Taylor. Also, because the declaration fails to identify the mailing address and residence of Taylor, the declaration does not comply with 37 CFR 1.63(c)(1). On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

ORUM & ROTH
53 W JACKSON BLVD
CHICAGO IL 60604

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MAY 29 2003

OFFICE OF PETITIONS

In re Application of Adams, et al. Application No. 10/197,002 Filed: July 17, 2002 Attorney Docket No. 13183	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 19, 2003 (Certificate of Mailing dated May 14, 2003).

The renewed 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 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).

The above-identified application was filed on July 17, 2002, without an executed oath or declaration. Accordingly, on August 16, 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, on October 21, 2002, applicant filed a petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant included a Certificate of Mailing dated October 16, 2002. Accompanying the petition was a declaration signed by joint inventor Matthew Thomas Adams, but lacking a signature from joint inventor Douglas Adrian Taylor.

However, the petition was dismissed in a decision mailed on March 14, 2003. The petition was dismissed because Rule 47 applicant failed to show that a copy of the application papers had been sent to Taylor. In addition, the declaration did not comply with 37 CFR 1.63 because it did not identify the citizenship, mailing address, and residence of Taylor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. On renewed petition, Rule 47 applicant still has not met requirement (2) above.

On renewed petition, Rule 47 applicant stated that a copy of the application papers were mailed to Taylor on March 17, 2003, and that no executed declaration from Taylor has been received. Accordingly, requirement (1) above has now been satisfied. However, Rule 47 applicant still has not submitted a 37 CFR 1.63 declaration executed by Adams, with the signature block for Taylor left blank, and identifying the citizenship, residence, and mailing address of Taylor.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

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JUL 2 5 2003

OFFICE OF PETITIONS

ORUM & ROTH
53 W JACKSON BLVD
CHICAGO IL 60604

In re Application of Adams, et al. Application No. 10/197,002 Filed: July 17, 2002 Attorney Docket No. 13183	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 18, 2003 (Certificate of Mailing dated July 15, 2003).

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

The above-identified application was filed on July 17, 2002, without an executed oath or declaration. Accordingly, on August 16, 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, on October 21, 2002, applicant filed a petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant included a Certificate of Mailing dated October 16, 2002. Accompanying the petition was a declaration signed by joint inventor Matthew Thomas Adams, but lacking a signature from joint inventor Douglas Adrian Taylor.

However, the petition was dismissed in a decision mailed on March 14, 2003. The petition was dismissed because Rule 47 applicant failed to show that a copy of the application papers had been sent to Taylor. In addition, the declaration did not comply with 37 CFR 1.63 because it did not identify the citizenship, mailing address, and residence of Taylor.

On renewed petition filed May 19, 2003, Rule 47 applicant established that the application papers had been presented to Taylor. However, the petition was dismissed in a decision mailed on May 29, 2003 because Rule 47 applicant still did not file a declaration identifying the citizenship, mailing address, and residence of Taylor.

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

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63. As Rule 47 applicant previously met the other requirements for a grantable petition with his earlier filed petitions, the above-identified application is hereby accorded Rule 1.47(a) status.

As there is no fee for a renewed petition, the $130 petition fees submitted on May 19, 2003 and July 18, 2003 have been refunded to Deposit Account No. 04-2219.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1772, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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

MAILED

MAR 9 2004

Office of the Director
Group 3300

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

Paper No. 6

In re application of
Michael E. Hay, et al.
Application No. 10/197,020 :
Filed: July 17, 2002 :
For: REMOVABLE TILTING BIN SYSTEM :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 24, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B) the stated reason for the withdrawal is "Transfer of patent file..". This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by *clearly specifying* one of the valid reasons for withdrawal listed under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

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

KJD/cps: 2/26/04

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OFFICE OF PETITIONS

KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA CA 91101-4710

In re Application of
Raju, et al.
Application No. 10/197,044
Filed: July 16, 2002
Atty. Dkt. No.: PSTA0001/MRK

: LETTER REGARDING PTA

This letter is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705(b)," filed February 23, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed November 24, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 743 days. Applicants indicate this adjustment is incorrect because the Office neglected to assess a reduction of 38 days in connection with the drawings filed October 24, 2008. Applicants assert that the correct adjustment is 705 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 705 days, as indicated by applicants.

The application is entitled to an adjustment of 784 days under 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on November 8, 2005. The adjustment was properly reduced 41 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

However, as indicated by applicants, the Office neglected to assess a reduction of 38 days in connection with the drawings submitted October 24, 2008. In accordance with 37 CFR 1.704(c)(8), the reduction commenced September 17, 2008, the date that an initial reply (RCE) was filed, and ended October 24, 2008, the date that a supplemental paper (drawings) was filed.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of 705 days (adjustments totalling 784 days less reduction of 79 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The application file is being forwarded to the Division 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).

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Saturday
Date: 7/18/2009

PALM INTRANET

Time: 06:59:09

PTA Calculations for Application: 10/197044			
Application Filing Date:	07/16/2002	PTO Delay (PTO):	784
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	41
Post-Issue Petitions:	0	Total PTA (days):	705
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	07/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
84	11/24/2008	MAIL NOTICE OF ALLOWANCE			
83	11/10/2008	ISSUE REVISION COMPLETED			
82	11/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	11/10/2008	DOCUMENT VERIFICATION			
80	11/07/2008	NOTICE OF ALLOWABILITY			
76	09/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	10/24/2008	NEW OR ADDITIONAL DRAWING FILED			
74	09/16/2008	REFERENCE CAPTURE ON IDS			
73	09/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	11/05/2008	DATE FORWARDED TO EXAMINER			
71	09/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
70	11/05/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
69	09/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	09/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
67	07/16/2008	FINISHED INITIAL DATA CAPTURE			
66	06/23/2008	EXPORT TO INITIAL DATA CAPTURE			
65	06/19/2008	MAIL NOTICE OF ALLOWANCE			
64	06/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	06/17/2008	ISSUE REVISION COMPLETED			
62	06/17/2008	DOCUMENT VERIFICATION			

61	06/17/2008	NOTICE OF ALLOWABILITY			
57	03/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	04/13/2008	DATE FORWARDED TO EXAMINER			
55	03/07/2008	RESPONSE AFTER NON-FINAL ACTION			
54	03/07/2008	REFERENCE CAPTURE ON IDS			
53	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	12/13/2007	MAIL NON-FINAL REJECTION			
50	12/08/2007	NON-FINAL REJECTION			
49	11/17/2007	DATE FORWARDED TO EXAMINER			
48	10/29/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	11/17/2007	DATE FORWARDED TO EXAMINER			
46	10/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
45	11/17/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
44	10/29/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	08/17/2007	MAIL FINAL REJECTION (PTOL - 326)			
42	08/16/2007	FINAL REJECTION			
41	08/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
40	06/26/2007	DATE FORWARDED TO EXAMINER			
39	06/15/2007	RESPONSE AFTER NON-FINAL ACTION		31	37
38	06/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/15/2007	MAIL NON-FINAL REJECTION			
36	02/03/2007	NON-FINAL REJECTION			
35	11/28/2006	DATE FORWARDED TO EXAMINER			
34	11/16/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	11/28/2006	DATE FORWARDED TO EXAMINER			
32	11/16/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	29
31	11/28/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	11/16/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	08/11/2006	MAIL FINAL REJECTION (PTOL - 326)			

28	08/06/2006	FINAL REJECTION			
27	05/26/2006	DATE FORWARDED TO EXAMINER			
26	05/23/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
25	04/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	04/25/2006	MAIL RESTRICTION REQUIREMENT			
23	04/19/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	04/13/2006	CORRESPONDENCE ADDRESS CHANGE			
21	02/22/2006	DATE FORWARDED TO EXAMINER			
20	02/13/2006	RESPONSE AFTER NON-FINAL ACTION		5	19
19	11/08/2005	MAIL NON-FINAL REJECTION	784		-1
18	11/04/2005	NON-FINAL REJECTION			
17	03/19/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	07/28/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	05/03/2004	REFERENCE CAPTURE ON IDS			
13	05/03/2004	REFERENCE CAPTURE ON IDS			
12.7	03/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	07/28/2003	REFERENCE CAPTURE ON IDS			
9.7	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	11/12/2002	APPLICATION DISPATCHED FROM OIPE			
6	11/08/2002	APPLICATION IS NOW COMPLETE			
5	10/29/2002	ADDITIONAL APPLICATION FILING FEES			
4	10/29/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	08/23/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	07/31/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/16/2002	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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KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA, CA 91101-4710

Mail Date: 04/21/2010

Applicant	: Lawrence N. Raju	: DECISION ON REQUEST FOR
Patent Number	: 7577618	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/197,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1133** 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: E. Keasel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/197,068 Patent No.: 7028712

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: _____

Eric Keasel — SPE

3753 — Art Unit

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JONATHAN A. PLATT
RENNER OTTO BOISSELLE & SKLAR
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

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MAY 12 2004
OFFICE OF PETITIONS

In re Application of	:	
Barry J. French et al	:	
Application No. 10/197,135	:	NOTICE
Filed: July 17, 2002	:	
Attorney Docket No. ARENP0118US	:	

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 Publishing Division to be processed into a patent.

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

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Paper No. None

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OFFICE OF PETITIONS

Dale E. Fiene
622 Gaslight Drive
Algonquin IL 60102

In re Application of	:	
Dale E. Fiene	:	DECISION ON PETITION
Application No. 10/197,141	:	UNDER 37 C.F.R. §1.28(c)
Patent No. 6,860,617	:	
Filed: July 16, 2002	:	
Issue Date: March 1, 2005	:	
Title: COMPACT LUMINAIRE	:	

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

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

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence

related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

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

cc: Dale E. Fiene
200 N Harrison Street
Suite 103
Algonquin IL 60102

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Dunlap, Codding & Rogers
P. O. Box 16370
Oklahoma City, OK 73113

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Paul DeAngelis :
Application No. 10/197,153 : ON PETITION
Filed: July 16, 2002 :
Attorney Docket No. 3554.080 :

This is a decision on the petition filed July 13, 2004, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED.**

A "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" (Notice) was mailed to applicant on December 31, 2002. The Notice set a two-month period within which to submit a reply. Petitioner has provided a copy of a post card receipt showing that the response to the Notice was timely filed by hand-delivery on January 28, 2003. In view thereof, the petition to revive under 37 CFR 1.137(a) is unnecessary and the petition fee of $55 will be credited to petitioner's deposit account in due course.

The 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) 272-3223.

Marianne E. Jenkins

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/3/2005

2 Serial/Patent # 10/197,153

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		7/13/2004	$ 55
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 55

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 0 4 -- 1 7 0 0

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

PETITION IS UNNECESSARY SINCE APPLICATION WAS IMPROPERLY ABANDONED

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: MARIANNE JENKINS TITLE: PET. EXMR.

SIGNATURE: Marianne C. Jenkins PHONE: 2-3223

OFFICE: PETITIONS

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 2/4/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

Sughrue Mion PLLC
1010 El Camino Real Suite 300
Menlo Park CA 94025

Dear Applicant:

The Box PGPub replacement drawings for application number 10/197,170 received on 7/18/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Michael John Wilsher	:	
Application No. 10/197,170	:	ON PETITION
Filed: July 15, 2002	:	
Attorney Docket No. CQ10079	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 30, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 28, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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Patent No. : 7,485,443 B2
Ser. No. : 10/197,189
Inventor(s) : Stevens et al.
Issued : Feb. 3,2009
Title : SOLID-PHASE REACTIONS
Docket No. : NW/TWT-07280
Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (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.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

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ON PETITION

In re Patent No. 7,485,443
Issue Date: February 3, 2009
Application No. 10/197,189
Filed: July 17, 2002
Attorney Docket No. NW/TWT-07280

This is a decision on the petition filed May 6, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Third Wave Technologies, Inc., Madison, WI (US)."

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 Northwestern University to Third Wave Technologies, Inc. was recorded on March 23, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should 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

MARSHALL, GERSTEIN & BORUN
RICHARD H. ANDERSON
SUITE 6300, SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606-6357

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Gerald Russo et al :
Application No. 10/197,195 :
Filed: July 17, 2002 :
Attorney Docket No. 28472/38266 :

This is a decision on the petition filed November 2, 2004 to correct assignment data on Form PTOL-85(b).

The petition is granted.

The matter is being referred to the Publishing Division.

Telephone inquiries 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
www.uspto.gov

#11

MAILED

JUL 1 2

Patent Counsel
Schlumberger Reservoir Completions
14910 Airline Road
P.O. Box 1590
Rosharon, TX 77583-1590

In re Application of
Wallace E. Voreck et al.
Application No. 10/197,244
Filed: July 17, 2002
For: DETONATOR

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 23, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed June 16, 2004 because of applicants' failure to reply to the non-final Office action of November 18, 2003.

Petitioner states that a response was filed by mail on February 18, 2004. The copy of the response submitted with the petition includes a postcard receipt dated February 23, 2004 and a signed Certificate of Mailing dated February 18, 2004. Since the postcard receipt has a date stamp outside the period for reply which ended February 18, 2004, and no extensions of time were purchased, applicants cannot rely on the postcard receipt and must rely on the Certificate of Mailing dated February 18, 2004 for the petition to withdraw the holding of abandonment.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the

original response by mail on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

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

RAR/vdb: 7/1/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#13

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

MAILED
FROM DIRECTORS OFFICE

JAN 11 2005

TECHNOLOGY CENTER 3600

Schlumberger Reservoir Completions
14910 Airline Road
P.O. Box 1590
Rosharon, TX 77583-1590

In re Application of
Wallace E. Voreck, et al.
Application No. 10/197,244
Filed: July 17, 2002
For: DETONATOR

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This a response to applicants' renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on September 1, 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 signed on February 18, 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/rwg: 1/3/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mailed MAY 18 2004

Paper No.

In re Application of Martin MacPhee et al. Serial Number: 10/197249 Filed: July 18, 2002 For: METHODS FOR STERILIZING BIOLOGICAL MATERIALS BY IRRADIATION OVER A TEMPERATURE GRADIENT	: : : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02,II

This is in response to the petition filed, January 08, 2004, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

Marian C Knode

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

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

UNITED STATES 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 25, 2008

Patent No. :7,264,953
Inventor(s) :Lawrence et al.
Issued :September 4, 2007
Title :MUTANT PROTEINASE-INHIBOTORS AND USES THEREOF

Re: Request for Certificate of Correction

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

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

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

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

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Joseph A. Williams, Jr
Marshall, Gerstein & Borun LLP
233 S. Wcker Drive, Ste 6300
Chicago, Ill 60606-6357

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

SEP 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BERNHARD P. MOLLDREM, JR.
224 HARRISON STREET
SUITE 200
SYRACUSE NY 13202

In re Application of
David A. Milman
Application No. 10/197,295
Filed: July 16, 2002
For: **METHOD OF PROCESSING AND BILLING WORK ORDERS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 9, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
703-305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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William H. Dippert, Esq.
Reed Smith LLP
29th Floor
599 Lexington Avenue
New York, NY 10022-7650

MAILED

JUL 12 2005

Technology Center 2100

In re Application of:	)	
Lasser et al.	)	
Application No. 10/197,316	)	
Filed: July 16, 2002	)	**DECISION ON REQUEST FOR**
For: ERROR CORRECTION FOR NON-	)	**WITHDRAWAL AS ATTORNEY**
VOLATILE MEMORY	)	
	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed April 28, 2005.

A Revocation Of Power Of Attorney Under 37 CFR § 1.36 was filed on February 28, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Dr. Mark Freeman Ltd. as the attorneys of record of the instant application. The Power Of Attorney filed February 28, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by the Dr. Mark Friedman Ltd..

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0651-0032
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

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	10/197346
Filing Date	7/17/2002
First Named Inventor	Cloudman et al
Examiner Name	
Art Unit	
Attorney Docket No.	100200883-1

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

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

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

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

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	[signature]	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)
6775812	2004-08-10	10197346	2002-07-17	100200883-1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

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		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

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
3404 E. HARMONY ROAD
FORT COLLINS, CO 80527-2400

COPY MAILED

JUL 15 2008

OFFICE OF PETITIONS

Patent No. 6,775,812 :
Application No. 10/197,346 :
Filed: July 17, 2002 :
Issued: August 10, 2004 :
Attorney Docket No. 100200883-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 12, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED as moot**.

A petition under 37 CFR 1.378(c) to accept the delayed payment of maintenance fee in an expired patent is not necessary in the instant patent, as the patent has not expired. The Maintenance Fee Window dates for the 3.5-year maintenance fee are as follows:

Open Date: August 10, 2007
Surcharge Date: February 12, 2008
Close Date: August 11, 2008

The instant patent would not expire unless the maintenance fee and late surcharge were not submitted on or prior to August 11, 2008. However, petitioner submitted the $910.00 maintenance fee and the $130.00 surcharge during the 6-month grace period. Accordingly, the fees were timely and the instant patent is maintained in force.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2006

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/197357 Patent No.: 6,774,611

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**.

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

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.

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

Comments: The certificate of correction has been reviewed and approved.

4-4-06

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

SPE

2838
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

Patent No. : 7051738 B2
Ser. No. : 10/197,359
Inventor(s) : ORON, URI
Issued : 05/30/06
Title : **APPARATUS FOR PROVIDING ELECTROMAGNETIC BIOSTIMULATION OF TISSUE USING OPTICS AND ECHO IMAGING**
Docket No. : **BIO-186**

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.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

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

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

B

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

AUG - 9 2004

10,197,368

In re Application of
Esteban Masuda et al
Serial No. 10/197,368
Filed: July 16, 2002
For: METHODS OF IDENTIFYIN COMPOUNDS THAT MODULATE IL-4 RECEPTOR-MEDIATED IGE SYNTHESIS UTILIZING A CLLD8 PROTEIN

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

Dorsey & Whitney, LLP
Intellectual Property Department
4 Embarcadero Center, Suite 3400
San Francisco, CA 94111

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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AUG - 9 2004

In re Application of
Esteban Masuda et al
Serial No. 10/197,368
Filed: July 16, 2002
For: METHODS OF IDENTIFYIN COMPOUNDS THAT MODULATE IL-4 RECEPTOR-MEDIATED IGE SYNTHESIS UTILIZING A CLLD8 PROTEIN

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

Dorsey & Whitney, LLP
Intellectual Property Department
4 Embarcadero Center, Suite 3400
San Francisco, CA 94111

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Drafting Branch, PK3-910

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CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Caplan et al.
Application No. 10/197,376
Filed: July 17, 2002
Attorney Docket No. 2002834-0192

ON PETITION

This is a decision on the supplemental petition under 37 C.F.R. § 1.137(b), filed December 1, 2003, to revive the above-identified application.

The petition is **dismissed as moot.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 14, 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 15, 2002.

Petitioner met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b) with the originally filed petition submitted on August 22, 2003. Accordingly, the $65.00 late declaration surcharge submitted with this instant petition is unnecessary, as it was previously collected, and will be credited to petitioner's deposit account as authorized.

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

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

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

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

Sunil Dhuper
47 Red Groun Road
Old Westbury, NY 11568

In re Application of
SUNIL K. DHUPER et al.
Application No.: 10/197,396
Attorney Docket No.: 20379/0202556-US0

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

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 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, by operation of law, the above-identified application became abandoned at midnight on January 2, 2004 (January 1, 2004 was a Federal holiday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 1, 2003 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period of reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three month extension of time ($510) submitted with the petition on May 16, 2005 was subsequent to the maximum extendable period of reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A power of attorney to the practitioners at Customer Number 07278 was filed on February 15, 2005. However, the power of attorney is not acceptable since it was not signed by all the inventors. Therefore, in view of the nonacceptance of the power of attorney, a courtesy copy of this decision is being mailed to petitioner. All future correspondence regarding this application will be mailed to the above-noted address of record until such time as an acceptable power of attorney is received.

The application is being referred to Technology Center AU 3761.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

cc: Edward J. Ellis
DARBY & DARBY
P.O. BOX 5257
New York, NY 10150-5257

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

SUGHRUE, MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

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OCT 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Ueno et al.	:	PETITION
Application No. 10/197,403	:	
Filed: July 18, 2002	:	
Attorney Docket No. Q71075	:	

This is a decision on the petition filed September 19, 2002, to establish that page 5 of the specification was part of the originally filed application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner states that the petition is accompanied by a copy of the returned postcard receipt. Unfortunately, the Office is unable to locate a copy of the postcard in the file. The Office respectfully requests an additional copy of the postcard receipt.

If the renewed petition is granted, the petition fee will be refunded.

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 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
www.uspto.gov

Paper No. 4

SUGHRUE, MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Ueno et al.	:	
Application No. 10/197,403	:	DECISION ON
Filed: July 18, 2002	:	PETITION
Attorney Docket No. Q71075	:	

This is a decision on the renewed petition filed November 18, 2002, to establish that page 5 of the specification was part of the originally filed application.

On July 18, 2002, the application was filed.

On August 28, 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 18, 2002, and advising applicants that page 5 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 5 was deposited on July 18, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 38 pages of specification on July 18, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 5 of the specification.

Upon review of the record, page 5, deposited on July 18, 2002, has not been located. However, the evidence is convincing that the application papers deposited on July 18, 2002, included page 5 and that page 5 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 5 submitted with the original petition will be used for examination purposes.

The petition fee will be credited to petitioner's deposit account.

The Notice mailed August 28, 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 18, 2002, using the application papers filed on July 18, 2002, and the copy of page 5 of the specification filed with the original petition on September 19, 2002.

---

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

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

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12-2-02

2 Serial/Patent # 10/197,403

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	9-19-02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 9 -- 4 8 8 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Proves we lost paper

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Brantley TITLE: Petitions Atty

SIGNATURE: [signature] PHONE: 306-5683

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 12/02/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

ANTONIO MICELI
4259 FLITTER COURT
MISSISSAUGA ON L5L 2J5
CANADA **AIR MAIL**

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Antonio Miceli	:	DECISION ON PETITION
Application No. 10/197,425	:	UNDER 37 CFR 1.137(b)
Filed: July 18, 2002	:	
Attorney Docket No. TM-1-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed December 2, 2003, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on March 3, 2003. A Notice of Abandonment was mailed on December 17, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made an adequate statement of unintentional delay.[1]

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. With the present petition, petitioner filed a

[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 this paragraph was unintentional" be submitted. The statement presented will be accepted and 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 present petition.

request for an extension of time with a $510.00 fee, subsequent to the maximum period obtainable for reply. Accordingly, this fee is unnecessary and will be refunded to petitioner by treasury check.

This matter is being referred to Technology Center Art Unit 3749.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 21 2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of:
MASSEY et al.
Serial No.: 10/197,450
Filed: July 17, 2002
Attorney Docket No.: **100110654-1**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on March 01, 2005, to withdraw the holding of abandonment under 37 C.F.R. § 1.181, and the Status Inquiry filed September 14, 2005. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on June 09, 2004. A Notice of Abandonment was mailed on January 27, 2005.

Petitioner asserts that on September 08, 2004, a response including an amendment was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of the amendment on September 14, 2004.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on September 14, 2004, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof.

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

The copy of the response submitted with the supplement to the petition on March 01, 2005, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

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

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

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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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

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JAN 13 2010

Patent No. 7,303,551		
In re Application of	:	
Dean A. Erickson	:	
Application No. 10/197,453	:	NOTICE
Filed: July 17, 2002	:	
Attorney Docket No. 47542/223	:	

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.

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 person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **James L. Brown**
Swanson & Bratschun, L.L.C.
8210 Southpark Terrace
Littleton, CO 80120

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/21/2010

Applicant	: Dong-Hyeop Han	: DECISION ON REQUEST FOR
Patent Number	: 7660005	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/197,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1200** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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OFFICE OF PETITIONS

IANDIORIO & TESKA
260 BEAR HILL ROAD
WALTHAM MA 02451-1018

JUN 16 2003
IANDIORIO & TESKA

In re Application of Gold, et al. Application No. 10/197,511 Filed: July 17, 2002 Attorney Docket No. FM-207J Title: METHOD OF PREPARING AN ANTI-FOULING COATING	: : : : :	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed June 11, 2003 (Certificate of Mailing dated June 6, 2003), and the 37 CFR 1.63 declarations filed December 23, 2002 and June 11, 2003.

The above-identified application was filed on July 17, 2002, without an executed oath or declaration. Accordingly, on August 15, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an execute oath or declaration in compliance with 37 CFR 1.63 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 the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated December 16, 2002.[1] Accompanying the petition were statements of facts by Marcella Burke and David W. Poirier, detailing the efforts taken to locate joint inventor Takashi Enoki.

However, this petition was dismissed in a decision mailed on April 14, 2002. The declaration submitted was not in compliance with 37 CFR 1.63.

With the instant petition, petitioner has now submitted a declaration in compliance with 37 CFR 1.63 and executed by all of the inventors and legal representatives.

---

[1] December 15, 2002 fell on a Sunday. See 37 CFR 1.7(a).

In view of the **joinder** of the inventors, 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).

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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WEINER & BURT, P.C.

UR

Mailed MAY 15 2002

Paper NO. 4

jc912 U.S. PTO
10/197521
07/10/02

In re Application of
Chrisopher S. Autterson
Serial Number: 10/039,722
Filed: October 24, 2001
For: METHOD OF BONDING METAL SURFACES, AND COMPONENTS THEREFOR

DECISION ON PETITION UNDER M.P.E.P. 708.02, II

This is a decision on the Petition to Make Special because of Actual Infringement (37 C.F.R. 1.102 and MPEP 708.02) filed October 24, 2001, along with the requisite fee (paid), in the above-noted application. The petition with accompanying statement, meet the requirements of Section 708.02 (II) of the MPEP.

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

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

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is GRANTED.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering
703/308-1193

Weiner & Burt, P.C.
P.O. BOX 186
Harrisville, MI 48740

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Paul Hedrick, et al. :
Application No. 10/197,531 : ON PETITION
Filed: July 18, 2002 :
Attorney Docket No. 0102704.0522939 :

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

The petition is **GRANTED**.

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

The application file is being referred to Technology Center AU 2839 for consideration of the amendment filed July 30, 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 Patents
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NOVAK DRUCE + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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DEC 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Kingston, Tim	:	
Application No. 10/197,533	:	DECISION ON PETITION
Filed: July 18, 2002	:	
Attorney Docket No. 7589.045.REUS00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3681 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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

Mailed: APR 24 2003

Paper Number 6
UR

In re application of	:	
Tomio Yamashita et al.	:	DECISION ON
Serial No. 10/197,575	:	PETITION
Filed: July 18, 2002	:	
For: SEMICONDUCTOR DEVICE AND METHOD FOR	:	
MANUFACTURING THEREOF	:	

This is a decision on the PETITION TO EXPUNGE UNDER 37 CFR 1.182, filed February 14, 2003 which has been accepted as a timely petition under 37 CFR 1.59(b) and MPEP 724.05, II, and is before the Group Director of Technology Center 1700 for consideration.

DECISION

A review of the petitioner's request and the application record indicates that the request to expunge from the file record the materials entitled:

INFORMATION DISCLOSURE STATEMENT ON DECEMBER 19, 2002 in accordance with MPEP 724

should not be granted. Each of the criteria, A though F, for granting the request has not been satisfied, see MPEP 724.05, II. In particular, the petition fails to address criteria B, C, and D.

The petition is DISMISSED.

JMStone

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

Armstrong, Westerman &Hattori, LLP
1725 K Street, NW
Suite 1000
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

AUG 3 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Keiji Ohkoda	:	
Application No. 10/197,597	:	
Filed: July 18, 2002	:	
Attorney Docket No. 03560.003082	:	

This is a decision on the petition, filed August 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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 : August 31, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Keiji Ohkoda
Application No. : 10/197,597
Filed : July 18, 2002

The above-identified application has been assigned Patent No. 6,788,762 and an issue date of September 7, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 7, 2004:

"All reference to Patent No. 6,788,762 to Keiji Ohkoda of Tokyo, JAPAP for RADIOGRAPHIC APPARATUS appearing in the Official Gazette of September 7, 2004 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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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WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK, NY 10022

COPY MAILED

MAR 0 9 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Alex Nivorozhkin, et al. :
Application No. 10/197,609 :
Filed: July 18, 2002 :
Attorney Docket No. 11078-004-999 :

This is a decision on the petition, filed March 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 27, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1626 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Alex Nivorozhkin, et al.
Application No. : 10/197,609
Filed : July 18, 2002

The above-identified application has been assigned Patent No. 6,867,228 and an issue date of March 15, 2005.

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 March 15, 2005:

> "All reference to Patent No. 6,867,228 to Alex Nivorozhkin, et al. of MASSACHUSETTS for 5-ARYLTETRAZOLE COMPOUNDS, COMPOSITIONS THEREOF, AND USES THEREFOR appearing in the Official Gazette of March 15, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (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 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

#5

OIPE JC
OCT 17 2002

Express Mail No.: EV020654205US

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
10/197,616	07/15/2002	Jeffrey Van Ness	480188.416

CONFIRMATION NO. 4810

FORMALITIES LETTER

OC000000008659159

00500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

Date Mailed: 08/21/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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

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

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

10/23/2002 HAHMED1 00000110 10197616

01 FC:2001 370.00 OP
02 FC:2051 65.00 OP

For questions regarding compliance to these requirements, please contact:

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

Items Required To Avoid Processing Delays:

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

- Additional claim fees of **$800** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1235** for a Small Entity

- **$370** Statutory basic filing fee.
- **$65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$800**
  - **$576** for **64** total claims over 20.
  - **$84** for **2** independent claims over 3.
  - **$140**for multiple dependent claim 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

OIPE JC54
OCT 17 2002
PATENT & TRADEMARK OFFICE

Vn 10-21-02 MP/#

Express Mail No. EV020654205US

PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box ⟶ [+]

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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

TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	10/197,616
Filing Date	July 15, 2002
First Named Inventor	Jeffrey Van Ness
Group Art Unit	1651
Examiner Name	
Attorney Docket No.	480188.416

ENCLOSURES (*check all that apply*)

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment/Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement; Form PTO-1449
- [ ] Cited References
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts under 37 C.F.R. 1.52 or 1.53
- [ ] Response to Missing Parts/Incomplete Application
- [ ] Assignment Papers (*for an Application*)
- [x] Drawing(s) (9 sheets — Figs 1-7)
- [ ] Request for Corrected Filing Receipt
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [x] Power of Attorney, Revocation, Change of Correspondence Address
- [x] Declaration
- [x] Statement under 37 CFR 3.73(b)
- [ ] Terminal Disclaimer
- [ ] Small Entity Statement
- [ ] Request for Refund
- [ ] CD(s), Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group (*Appeal Notice, Brief, Reply Brief*)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Return Receipt Postcard
- [x] Additional Enclosure(s) (*please identify below*):

Preliminary Amendment; Copy of Assignment; Sequence Listing (7 pages); Declaration re sequence listing; Computer CD re sequence listing; Copy of Notice to File Missing Parts

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Individual Name	Qing Lin, Ph.D. See Limited Recognition in file	00500 PATENT TRADEMARK OFFICE
Signature		
Date	October 17, 2002	

QXL:cew #327048

OIPE JC54
OCT 17 2002
PATENT & TRADEMARK OFFICE

'Express 'Mail No. EV020654205US
PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032

FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT	($)	435.00

Complete if Known	
Application Number	10/197,616
Filing Date	July 15, 2002
First Named Inventor	Jeffrey Van Ness
Examiner Name	
Group Art Unit	1651
Attorney Docket No.	480188.416

METHOD OF PAYMENT

[X] Payment Enclosed:
[X] Check [ ] Credit card [ ] Money Order [ ] Other

[ ] Deposit Account:

Deposit Account Number: 19-1090

Deposit Account Name: Seed Intellectual Property Law Group PLLC

The Commissioner is authorized to *(check all that apply)*

[ ] Charge fee(s) indicated below [X] Credit any overpayments
[ ] Charge any additional fee(s) during the pendency of this application
[ ] Charge fee(s) indicated below, **except for the filing fee**
[X] Charge any deficiencies

to the above-identified deposit account.

[X] Applicant claims small entity status. See 37 CFR 1.27.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee($)	Small Entity Fee Code	Small Entity Fee($)	Fee Description	Fee Paid
1001	740	2001	370	Utility filing fee	370
1002	330	2002	165	Design filing fee	
1003	510	2003	255	Plant filing fee	
1004	740	2004	370	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
				SUBTOTAL (1)	($) 370

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims	20	-20 =	0	*		=	
Independent Claims	3	-3 =	0	*		=	
Multiple Dependent				*		=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** *Reissue independent claims over original patent*
1205	18	2205	9	** *Reissue claims in excess of 20 and over original patent*

SUBTOTAL (2) ($)

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

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Fee Code	Small Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	65
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2520	1812	2520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1840*	1805	1840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	400	2252	200	Extension for reply within second month	
1253	920	2253	460	Extension for reply within third month	
1254	1440	2254	720	Extension for reply within fourth month	
1255	1960	2255	980	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1510	1451	1510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1280	1453	640	Petition to revive – unintentional	
1501	1280	2501	640	Utility issue fee (or reissue)	
1502	460	2502	230	Design issue fee	
1503	620	2503	310	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee for provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	740	2801	370	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) ____					

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 65

SUBMITTED BY

Name (Print/Type)	Qing Lin, Ph.D.	*Registration No. Attorney/Agent)*	See Limited Recognition
Firm Name/ Address			
Signature		*Date*	October 17, 2002

00500
PATENT TRADEMARK OFFICE

QXL:cew #327046

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100715

DATE : July 15, 2010

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction on Patent No.: 6833712

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:

Changes to claim 29 do not apply since the changes substantively alter the scope of the claims.

/Patrick J Assouad/
Supervisory Patent Examiner, Art Unit 2858

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC - 8 2003

CHIEF INTELLECTUAL PATENT COUNSEL
AFFYMETRIX, INC.
3380 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

In re Application of	:
David M. Craford et al	:
Serial No.: 10/197,621	: PETITION TO MAKE SPECIAL
Filed: June 17, 2002	:
Attorney Docket No.: 3291.1	:

This is in response to applicants' petition filed September 23, 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. Therefor the petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-06

EDWARD DREYFUS, ESQ.
241 NORTH AVE., W.
WESTFIELD NJ 07090

COPY MAILED
NOV 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Martin Pettesch	:	
Application No. 10/197,635	:	DECISION ON PETITION
Filed: 17 July, 2002	:	
Atty. Docket No. UNIV-25	:	

This is a decision on the petition filed on 20 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 July, 2005, for failure to timely file a response to the final Office action mailed on 31 March, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

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

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

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

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

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

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 30 January, 2006.

Petitioner has filed an amendment after final rejection as the reply. The examiner has indicated that the amendment places the application in condition for allowance. Therefore the amendment may be favorably considered.

The petition fee will be charged to counsel's deposit account, No. 04-1649, in accordance with the authorization provided on 11 October, 2002.[2]

This application is being referred to the Technology Center Art Unit 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

[2] It is noted that the petition states that the fee was "previously filed on March 6, 2006" and that the paper filed on 6 March, 2006, lists petitioner's deposit account as "14-1649" (emphasis added). A review of Office financial records reveals that counsel's name is not associated with the above referenced deposit account number. However, the paper filed on 11 October, 2002, authorizes the charging of any additional fees required under 37 CFR 1.16 and 1.17 to counsel's deposit account No. 04-1649. In accordance with 37 CFR 1.25(b), this paper will be construed as a general authorization.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Brig Barnum Elliott :
Application No. 10/197,659 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No. 01-4049 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 28, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 5, 2007 for failure to timely reply to the final Office Action mailed January 4, 2007, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed on September 28, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2134 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

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JUL 23 2004
OFFICE OF PETITIONS

In re Application of :
Keita Kumamoto :
Application No. 10/197,670 :
Filed: July 18, 2002 :
Attorney Docket No. 8017-1034 :

ON PETITION

This is a decision on the petition, filed July 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 (703) 305-9220.

The application is being referred to Technology Center AU 2825 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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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JAN 24 2005

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JAN 24 2005
OFFICE OF THE DIRECTOR
TC 3600

LaCasse & Associates
1725 Duke Street
Suite 650
Alexandria, VA 22314

In re Application of: James A. Gilbert et al. Serial No. 10/197,673 Filed: July 18, 2002 For: FINANCIAL PROCESSING GATEWAY STRUCTURE	NOTIFICATION OF IDENTIFICATION OF PRIOR ART IN LATE FILED PROTEST UNDER 37 CFR 1.291(a)

The protest filed December 28, 2004 under 37 CFR 1.291 was filed after the January 23, 2003 publication date of the application.

Because the protest was filed after publication of the application, it is untimely and it is not being entered in the application file. The original protest is enclosed with this letter in accordance with MPEP 1901.06, Protest Filed After Allowance or Publication of the Application.

If appropriate, applicant may wish to consider submitting prior art from the protest pursuant to 37 CFR 1.97 and 37 CFR 1.56 during the prosecution of the application.

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

SM/SM: 1/23/05

Enclosure: Protest filed December 28, 2004 under 37 CFR 1.291(a)

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OCT - 9 2003

BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877

In re Application of	:
Jens Croenlein et al	:
Serial No.: 10/197,734	: WITHDRAWAL OF ABANDONMENT
Filed: July 18, 2002	:
Attorney Docket No.: 1/1241US	:

This is in response to the petition under 37 CFR 1.181, filed September 22, 2003, requesting withdrawal of abandonment based on a timely filed reply.

A review of the file history shows the examiner mailed a non-Final Office action to applicants on November 20, 2002, setting a three month statutory period for reply. When no reply was received the examiner mailed a notice of Abandonment to applicants on September 10, 2003. Applicants state that they replied timely on May 6, 2003 (Certificate of Mailing date), including a three month extension of time request and fee. Office records indicate that the extension of time fee was recorded on May 13, 2003, thus indicating receipt by the Office of the amendment. The original amendment has been misplaced by the Office and applicants' copy will be used in lieu thereof. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

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

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Roger Fulghum
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

Mail Date: 06/07/2010

Applicant	: Thao Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7668999	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/197,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **603** 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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ROBERT BERLINER
FULBRIGHT & JAWORSKI LLP
865 S. FIGUEROA STREET, 29TH FLOOR
LOS ANGELES, CA 90017

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MAY 24 2004

OFFICE OF PETITIONS

In re Application of
Paul K. Hansma et al
Application No. 10/197,771
Filed: July 17, 2002
Attorney Docket No. 1279-366/10103463

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 2856.

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 : 09-08-08

TO SPE OF : ART UNIT 1647-------

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/197816 Patent No.: 7390637

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

FOR IFW FILES: X

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE (M. RAO) **Art Unit** 1647

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KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:
Chun Ho Fan et al	:
Application No. 10/197,832	: DECISION GRANTING PETITION
Filed: July 19, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 50626.32	:

This is a decision on the petition, filed June 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :
Shih-Kuei Hsieh :
Application No. 10/197,853 : DECISION ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. MR2551-316 :

This is a decision on the petition, filed November 23, 2007[1], which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 30, 2003, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 30, 2003.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on November 21, 2003 of an amendment. A copy of the previously submitted reply accompanies the petition.

The amendment acknowledged as having been received in the USPTO on November 21, 2003 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment was timely received in the USPTO but lost after receipt thereof.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on November 21, 2003.

---

[1] It is noted that a petition under 1.181 was filed June 15, 2004.

This application is being referred to Technology Center AU 3723 for appropriate action in the normal course of business on the reply received with petition.

Charlema 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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Mailed:
In re application of :
Hidetoshi Takimoto et al. : DECISION ON
Serial No. 10/197,862 : PETITION SEP 2 9 2005
Filed: July 19, 2002 :
For: FUEL REFORMING APPARATUS AND THE METHOD OF STARTING IT

This is a decision on the PETITION UNDER 37 CFR 1.144 TRAVERSING THE ELECTION/RESTRICTION REQUIREMENT mailed November 12, 2004 and made final in the office action mailed January 7, 2005.

The instant petition was filed on May 9, 2005. In the petition, it is urged that election requirement should be withdrawn, and the linking and method claims should be considered for examination.

DECISION

It is noted that the examiner prepared a notice of allowability which was mailed on July 14, 2005. In this action, the examiner rejoined all of the withdrawn claims and indicated that said claims are allowable thereby making the instant petition moot. Accordingly the petition is **DISMISSED.**

JMStone

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

GRIFFIN & SZIPL, P.C.
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VIRGINIA 22204

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LEE, SHUN KUAI
NO. 189, SEC 1, GONGYUAN RD., TIANWEI VILLAGE
TIANWEI TOWNSHIP, CHANGHUA COUNTY 522
TAIWAN

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
To-Mu Chen and Shun-Kuai Lee :
Application No. 10/197,876 :
Filed: July 19, 2002 :
Attorney Docket No. SUNG 102 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 31, 2005, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to timely reply to the non-final Office action mailed August 16, 2004. Accordingly, this application became abandoned on November 17, 2004. A Notice of Abandonment was mailed on March 22, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

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

This petition lacks items (1) and (3) above.

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

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As to item (1), the required reply has not been submitted. As such, the petition must be dismissed.

As to item (3), petitioner contends the August 16, 2004 Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Furthermore, please note; the petition and the showing provided with the instant petition were signed by Shun-Kuai Lee. However, both items must be signed by all applicant's, i.e. To-Mu Chen and Shun-Kuai Lee.

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

Attachments:
Copy of August 16, 2004 Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:	
NAGAYAMA, et al.	:	
Application No. 10/197,877	:	DECISION GRANTING PETITION
Filed: July 19, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05721.0030	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 24, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 22, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 filed September 29, 2006 and for consideration of the concurrently filed Information Disclosure Statement.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 6

ANTONY P. NG
BRACEWELL & PATTERSON, L.L.P.
P.O. BOX 969
AUSTIN TX 78767-0969

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of :
Parlos et al. :
Application No. 10/197,881 :
Filed: 18 July, 2002 :
Attorney's Docket No. 0455FV.45577 :

ON PETITION

This is a decision on the petition filed on 15 October, 2002, requesting that the above-identified application be accorded a filing date of 18 July, 2002, with Pages 27-30 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 18 July, 2002. However, on 27 September, 2002, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date but that Pages 27-30 of the specification (description and claims) appeared to have been omitted.[1]

In response, on 15 October, 2002, Pages 27-30 of the specification, and the present petition were filed. Petitioners argue that Pages 27-30 were filed with the other application papers on 18 July, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 18 July, 2002, and the above-identified application number, and identifies the application by the first named's inventor's last name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, Patent Application

[1]On 23 August, 2002, a Notice to File Corrected Papers was mailed, requiring an abstract in compliance with 37 CFR 1.72(b). On 10 September, 2002, an abstract was filed. On 27 September, 2002, the Notice mailed on 23 August, 2002, was withdrawn, and the Notice of Omitted Items was mailed.

(specification - 21 pages; claims - 9 pages; abstract - 1 page. Petitioners request that the application, including Pages 27-30 of the specification (containing claims), be accorded a filing date of 18 July, 2002.

A review of the record reveals that no Pages 27-30 of the specification containing claims have been located among the application papers deposited on 18 July, 2002. However, the evidence is convincing that the application papers deposited on 18 July, 2002, included Pages 27-30 of the specification containing claims, which were subsequently misplaced in the Office. Therefore, the application, including Pages 27-30 of the specification containing claims, is entitled to a filing date of 18 July, 2002.

The "Notice" mailed on 27 September, 2002, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 50-0259.

The application will be processed and examined using the copy of Pages 27-30 supplied on 15 October, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 18 July, 2002, using the application papers filed on 18 July, 2002, and the copy of Pages 27-30 supplied on 15 October, 2002.

Telephone inquires should be directed to the undersigned at 703 308-6918.

DWood

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

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

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/197,896
Filed: July 19, 2002
Attorney Docket No. 08409.0018
For: METHOD FOR FORMING A PHASE CHANGE MEMORY

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed August 30, 2002, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed August 16, 2002.

The application was deposited on July 19, 2002. On August 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application was deposited without drawings.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of July 19, 2002 on the basis that 3 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on July 19, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing July 19, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 3 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 3 sheets of drawing figures were filed on July 19, 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. 06-0916.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of July 19, 2002, using the copy of the originally filed 3 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 3 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 01/16/03

2 Serial/Patent # 10/197,896

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	8/30/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 06--0916

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard receipt prove drawings present upon initial filing
Refund pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Pet Atty

SIGNATURE: E Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

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252 KAIPII PL.
KIHEI, HI 96753

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Ian M. Barton, et al.
Application No. 10/197,930
Filed: July 16, 2002
Attorney Docket No. GA-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 16, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 4, 2004. A Notice of Abandonment was mailed on November 12, 2004. Receipt is acknowledged of the requisite issue/publication on February 16, 2005.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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KIHEI, HI 96753

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Ian M. Barton, et al. :
Application No. 10/197,930 : NOTICE
Filed: July 16, 2002 :
Attorney Docket No. GA-1 :

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 (571) 272-3201.

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

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GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS MN 55440

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MAR 0 8 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
O'Sullivan et al.	:	
Application No. 10/197,932	:	
Filed: July 17, 2002	:	
Attorney Docket No. 5599US	:	

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

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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NOV - 9 2004

RICHARD L. MILLER
12 Parkside Drive
Dix Hills NY 11746-4879

In re Application of:
Mary J. Goulbourne
Serial No.: 10/197,941
Filed: July 17, 2002
Attorney Docket No.: GOUM18A

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on September 28, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed January 9, 2004.

A review of the file history shows that the examiner mailed an Office action (first restriction requirement) to applicant on September 23, 2003, setting a one-month statutory time period for reply. Applicant responded to this restriction requirement in a timely manner on October 14, 2003. On January 9, 2004, the examiner mailed an Office action (second restriction requirement) to applicant setting a one-month statutory time period for reply. On July 28, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that a response to the Office action was timely filed on March 24, 2004, which is within the three-month time period set by the examiner. Applicant submits a fax copy of the cover sheet (exhibit #1) showing a three-month statutory time period for reply. It is noted that the scanned Official form shows a "3" with a line drawn through it, presumably a "1" to indicate one-month. However, since applicant's form (exhibit #1) shows a three in the Period for Reply portion of the form, applicant is given three months to respond to the Office action of January 9, 2004.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the elected invention on the merits.

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

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

In re Application of	:	
MASUDA, Esteban et al.	:	
Application No. 10/197,945	:	DECISION ON PETITION
Filed: July 16, 2002	:	TO WITHDRAW
Attorney Docket No. **375462-008US (355053)**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2007.

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

A review of the file record indicates that the power of attorney to DECHERT LLP has been revoked by the assignee of the patent application on March 06, 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: **BOZICEVIC, FIELD & FRANCIS LLP**
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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AUG 12 2005

MAIL DATE_____

STEPHANIE SEIDMAN
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of	:
HUBERT KOSTER, PH.D.	:
Serial No.: 10/197,954	: PETITION TO MAKE SPECIAL
Filed: 16 JULY 2002	:
Attorney Docket No.: 20985	:

This is in response to applicants' petition filed JULY 19, 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. Therefor 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 William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

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

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NOV 30 2006

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:
Hubert Köster et al	:
Serial No.: 10/197,954	: PETITION DECISION
Filed: July 16, 2002	:
Attorney Docket No.: 24743-2305	:

This is in response to the petition under 37 CFR 1.144, filed August 22, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on July 16, 2002, and contained claims 1-125, as amended by preliminary amendment. In a first Office action, mailed January 19, 2005, the examiner set forth a 22-way restriction requirement, not set forth herein.

Applicants replied on July 18, 2005, canceling claims 17-19, 24-28, 30-40, 45-46, 48-51, 54, 57, 72, 78-80, 91, 106-111 and 118, amending a number of other claims and adding claims 126-156. The restriction requirement was traversed with a specific traversal of groups 1-10, that they should be combined together as a single group.

The examiner, in view of the extensive amendments and traversal, mailed a new restriction requirement to applicants on October 4, 2005, as follows:

Group I – Claims 1-10, 13-16, 20-23, 29, 41-44, 47, 55-56, 63, 119-120, 143-144, 148-149 and 153-154, drawn to compounds of the formula $Q\text{-}Z(Y)_n\text{-}X_n$;
Group II – Claims 11-12, drawn to a solid support;
Group III – Claims 52-53, drawn to a composition;
Group IV – Claims 58-62, 64-68, 83-90, 92-97, 112-113, 146 and 152, drawn to a method analysis of biomolecules;
Group V – Claims 69-71, drawn to a method of separating protein conformers;
Group VI – Claims 73 and 147, drawn to a method of reducing diversity of a complex mixture of biomolecules;
Group VII – Claims 74-77, drawn to a method of identification of phenotype specific molecules;
Group VIII – Claims 98-100, drawn to a system for analysis of mixtures of biomolecules;

Group IX – Claims 101-104, drawn to a method of processing mass spectrographic data;
Group X – Claims 105 and 155, drawn to a method of analysis of biomolecules with a method step of pooling the products;
Group XI – Claims 121-142 and 150-151, drawn to capture compounds having a specific Z formula;
Group XII – Claims 114-117, 145 and 156, drawn to a method of analyzing biomolecules interactions.

An election of species was also required for Groups I, II, III, VIII and XI if one of them was elected. Specific reasoning for dividing each Group from the others was given.

Applicants replied on March 29, 2006, amending claims 1, 2 and 63 and electing the compounds of Group I with partial traverse with respect to Groups I, II, III and VIII. Applicants argued that the Groups were in combination/subcombination relationship and that no two-way distinctness had been shown. Applicants also traversed the election of species in that no true species is presented, but collections of compounds are presented, not single compounds. No species was identified or elected.

The examiner mailed a new Office action to applicants on August 1, 2006, acknowledging the election of Group I, but maintaining the requirement, and making it Final. The examiner argued that combination/subcombination relationship did not exist here based on claim 52 (Group III) and claim 98 (Group VIII) which show that the combination does not require the subcombination of Group I and that the subcombination has other utilities. Advisory of rejoinder of method claims with elected product claims was set forth should the elected product claims be found allowable. The requirement for an election of species was withdrawn. A new election of species within Group I was set forth requiring applicants to elect a single specific plurality of capture compounds.

This petition was filed on August 22, 2006, traversing the restriction requirement as being in error with respect to Groups I, II, III and VIII. Applicants also replied to the Office action on September 13, 2006.

DISCUSSION

Applicants' petition is directed only to the restriction between Groups I, II, III and VIII. Applicants' claims describe a collection of "capture compounds" based on the following structure:

$$\begin{array}{c} Q-Z-(X)_m \\ | \\ (Y)_n \end{array}$$

where Q permits separation or immobilization of the compounds, X is a moiety which binds to a biomolecule to form a stable structure, Y is a moiety which increases the selectivity of X and Z is a trivalent moiety to which X, Y and Q are bonded. As noted above, the claims of Group I are directed to **a collection of capture compounds, per se,** based on the formula shown. Claims 11 and 12 of Group II are directed to **a solid support comprising the collection** of compounds of claims 1 and 3 respectively arrayed on the support. Claims 52 and 53 of Group III are directed to

a composition comprising the collection of claim 16 **hybridized to a plurality of oligonucleotides** immobilized on a solid support. Claims 98-100 of group VIII are to **a system for analysis of a mixture of biomolecules** by computer and mass spectrometer.

All claims of each Group depend directly or indirectly on generic claim 1 directed to the collection of capture compounds. The collection of Group I is argued by applicants to be a subcombination claim set which is patentable by itself and is also critical to the patentability of the other Groups. For Group II, the solid support, per se, does not provide patentability to the combination. Patentability is solely dependent on the collection of compounds. Thus the combination of Group II claims is not separable from the subcombination of the Group I claims.

Group III claims are to the collection of capture compounds **hybridized** to a plurality of oligonucleotides or analogs **complimentary** to each Q. Although Q is defined as, *inter alia*, an olignucleotide, it is also defined as various peptides, biotin, etc. (see claim 15). (Y appears to be any one of hundreds of compounds, including oligonucleotides and peptides.) Thus the collected compounds here are the same ones set forth in claim 1 or analogs or compliments thereof and fall within the scope of the collection of compounds of claim 1. Thus a combination/subcombination relationship does exist and the claims are not properly restricted from each other.

The Group VIII claims are directed to a system for analysis of the collected compounds of claim 1 by computer using mass spectroscopy and software for such analysis. The situation here is somewhat different from the above in that the computer combined with the software and mass spectrometer may be patentable by itself. Patentability of the claim does not necessarily depend on the collected compounds of claim 1. However, combining the compounds of claim 1 with the analysis system set forth and determining that the collected compounds are patentable would impart patentability to the claims. Thus a different type of relationship exists here. It would appear that claim 1 (Group I) would form a linking relationship with the claims of Group VIII. Thus the claims of Group I would be examined for patentability first and if determined to be patentable would have the claims of Group VIII rejoined.

Applicants' argument with respect to multiple patents issuing having different expiration dates is noted, but irrelevant. Patent expiration date is determined by an application's filing date/earliest priority date. Any patent issuing from any application claiming this application's priority date would expire 20 years from this application's filing/priority date.

As further comment, applicants have not argued or traversed the restriction with respect to the Group XI compounds having a specific Z moiety. These would appear to be a subgenus of the collection of compounds of Group I and the examiner is urged to review these claims and determine whether they should be rejoined with the claims of Group I.

DECISION

The petition is **GRANTED-IN-PART.** Groups I, II and III are rejoined and considered to be a single Group for examination purposes. Group VIII is subject to rejoinder upon determination of allowability of the claims of Group I. Group XI is not rejoined, but should be further considered by the examiner for rejoinder with the claims of Group I.

The application will be forwarded to the examiner for consideration of applicants' reply filed September 13, 2006, and further action not inconsistent with this decision.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants Deposit Account No. 06-1050, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott.
Director, Technology Center 1600

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MAR 23 2007

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:
Hubert Köster et al	:
Serial No.: 10/197,954	: PETITION DECISION
Filed: July 16, 2002	:
Attorney Docket No.: 24743-2305	:

This is in response to the renewed petition under 37 CFR 1.144, filed December 22, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows is set forth in the previous decision and is not repeated herein. The only paper filed since the previous decision is this request for reconsideration of the decision.

DISCUSSION

Applicants' renewed petition is directed only to that part of the decision which held that Group VIII was not in a proper combination/subcombination relationship with Group I.

As previously stated, the Group VIII claims (claims 98-100) are directed to a system for analysis of the collected compounds of claim 1 by computer using mass spectroscopy and software for such analysis. In these claims the computer combined with the software and mass spectrometer apparatus may be patentable by itself. Patentability of the claim does not necessarily depend on the collected compounds of claim 1. As expressed in claim 98, the system for analysis requires a computer programmed to control and direct the analysis of biomolecules which means controlling the mass spectrometer attached or connected to the computer and would be similar irrespective of what compounds or collection of compounds are being analyzed. Programs for such control and direction are well-known. The claim further requires software for analysis of the data produced. Again, such software may be well-known. When specific control programs and/or software programs are incorporated together, the combination may be separately patentable from the compounds, *per se*. However, combining the compounds of claim 1 with the analysis system set forth and determining that the collected compounds are patentable would not necessarily impart patentability to the system claims. Upon reconsideration the sets of claims are determined to not be linked to each other. (A linking claims must link inventions of the same statutory class. That is not the case here.)

DECISION

The previous petition decision has been reconsidered, but the previous decision remains as stated therein except for the linking claim section. This petition is, therefore, **DENIED**.

The application will be forwarded to the examiner for consideration of applicants' reply filed September 13, 2006, and further action 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.

for

George C. Elliott.
Director, Technology Center 1600

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Stephanie Seidman
FISH & RICHARDSON
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

In re Application of	:
Koster, H.	:
Serial No.: 10/197,954	:Decision on Petition
Filed : April 24, 2003	:
Attorney Docket No.: 21121-004001/2305	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 22 May 2007 requesting reconsideration of the restriction requirement. In brief, three restriction requirements have been set forth in this application. Applicants elected with traverse, and petitioned the restriction requirements three times, resulting in two more modifications to the three restriction requirements. In view of some confusion resulting from the multiple restriction requirements, multiple petitions and multiple petition decisions, the record is not altogether clear.

The petition is **GRANTED** to the extent that the petition has been considered and the restriction requirements and previous petition decisions are all vacated. Concurrent with the mailing of this decision, the Examiner will prepare a new requirement for restriction in which the claims of previous Group I will be identified as linking claims directed to a subcombination which links plural combinations. In view of the file history, the inventions of previous Groups II and III will be combined into one group. Group (II/III) and Group VIII may be restrictable from each other using the distinctness test from MPEP 806.05(j). If desired, applicants will be permitted to elect a different invention in response. The application will be forwarded to the examiner for preparation of an Office action consistent with this decision.

It is noted that applicants are correct that the expiration date their patents would be measured from 20 years from their earliest effective filing date/priority date plus any accrued Patent Term Adjustment.

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

Christopher Low

Christopher Low
Director, Technology Center 1600 (acting)

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.
10/197,954	07/16/2002	Hubert Koster	3800014.00009 / 2305	6580

77202 7590 01/08/2010
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
LUNDGREN, JEFFREY S

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
01/08/2010	PAPER

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

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

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Alexandria, VA 22313-1450
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JAN 0 8 2010

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:	:
Koster et al.	:
Serial No.: 10/197,954	: PETITION DECISION
Filed: July 16, 2002	:
Attorney Docket No.: **3800014.00009 / 2305**	:

This is in response to the petition under 37 CFR § 1.181, filed December 23, 2009, requesting that the finality of the Office action of October 28, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on September 22, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected. The examiner rejected claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 under 35 USC 112, second paragraph, as indefinite. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 103 (a) as being unpatentable over Shchepivov et al. in view of Jaschke et al. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 103 (a) as being unpatentable over Shchepivov et al. in view of Jaschke et al. as applied to claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 above, and further in view of Reddy et al. and/or Behrens et al. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 6-11, 13-17, 21, and 24-30 of copending Application No. 10/388,027.

In reply to the non-final Office action of September 22, 2008, applicants filed a response on March 26, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to claims 1, 10, 42 and 86. Claim 23 was cancelled.

On October 28, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were again rejected. The examiner rejected claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 under 35 USC 112, second paragraph, as indefinite. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 103 (a) as being unpatentable over Shchepivov et al. in view of Jaschke et al. Claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 were rejected under 35 USC 103 (a) as being unpatentable over Shchepivov et al. in view of Jaschke et al. as applied to claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 above, and further in view of Reddy et al. and/or Behrens et al.

In response thereto, applicants filed this petition on December 23, 2009, requesting that the finality of the Office action of October 28, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on December 23, 2009, applicants request that the finality of the Office action of October 28, 2009 be withdrawn. Specifically, applicants argue that "finality of the Office Action is premature and improper because the newly recited rejection of claims 1, 3, 6-12, 14, 15, 41, 43, 44, 47 and 63 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite was not necessitated by amendment and could have been raised in the previous Office Action" because the language found to be indefinite was previously under consideration by the examiner in claims 1 and 41 at the time the non-final Office action was prepared.

Applicants' argument is well taken and persuasive since applicants' amendments did not necessitate the new rejections. MPEP § 706.07 recites:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims 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).

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Accordingly, it is decided that Applicants' argument is well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed October 28, 2009 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. As a result, any amendments submitted in response to that action will be entered.

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

Remy Yucel
Director, Technology Center 1600

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INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
SAN FRANCISCO, CA 94111

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Esteban Masuda et al	:	
Application No. 10/197,962	:	NOTICE
Filed: July 16, 2002	:	
Attorney Docket No. RIGL-012/00US	:	

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.[1]

This matter is being referred to Technology Center AU 1646.

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

[1] Effective September 27, 2004, the phone number will be 571-272-3201.

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN -7 2007

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

James S. Keddie, Ph.D.
BOZICEVIC, FIELD & FRANCIS, LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of	:
Masuda	:Decision on Petition
Serial No.: 10/197,962	:
Filed : 16 July 2002	:
Attorney Docket No.: RIGL-051	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 31 May 2007 to requests reconsideration of the restriction requirement mailed 31 March 2004.

In response to an eight-way restriction requirement, applicant elected Group II, with traverse. Upon reconsideration, the examiner rejoined Groups I-IV and made the restriction requirement FINAL. Applicant has now requested reconsideration of the restriction requirement between Group I-IV, original claims 1-15 and Groups V-VIII, original claims 16-24.

The current version of the independent claim for each group is set forth below.

> 1. **(Currently amended) A method of identifying a compound that modulates IL-4 receptor mediated IgE production, comprising determining whether the compound binds a TXNL polypeptide having <u>at least</u> 80% sequence identity to the sequence of SEQ ID NO:5, and determining that the compound modulates IL-4 induced IgE production.**
>
> 16. **(Withdrawn – Currently amended) A method of identifying compounds that modulate IL-4 receptor mediated IgE production, comprising contacting a compound from pool of candidate compounds with a TXNL polypeptide having <u>at least</u> 80% sequence identity to the sequence of SEQ ID NO:5, identifying those compounds of the pool that bind the TXNL, and determining whether the compounds modulate IL-4 receptor mediated IgE production.**

The only difference between the two methods of identifying a compound is whether or not the compound is selected from a pool of candidate compounds, as specified by claim 16. Because the method of claim 1 recites the open claim language "comprising," claim 1 reads upon

additional active steps such as selecting a compound from a pool of candidate compounds, as set forth in Groups V-VIII. For this reason, it would not present a serious burden to examine the methods encompassed by claim 16 (Groups V-VIII) along with the methods encompassed by claim 1 (already rejoined Groups I-IV).

Accordingly, the petition filed under 37 CFR 1.144 is **GRANTED**.

The restriction requirement between Groups I-VIII has been withdrawn.

The application will be forwarded to the Examiner to consider the papers filed in response to the Office action mailed 18 January 2007 and for preparation of an action consistent with this decision.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/6/08

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/197981 Patent No: 7039018 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 — 2419 Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 20 2004

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Ave
East Palo Alto CA 94303

In re Application of:	:
L.M. Chalupa	:
Serial No.: 10/198,003	: PETITION TO MAKE SPECIAL
Filed: July 17, 2002	:
Attorney Docket No.: UCAL-198	:

This is in response to applicant's petition filed August 3, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 50-0815, as directed. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/198,003	07/17/2002	Leo M. Chalupa	UCAL-198	7322

24353 7590 07/18/2006

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

EXAMINER
WEGERT, SANDRA L

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 07/18/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOZICEVIC, FIELD & FRANCIS LLP
220 MIDDLEFIELD ROAD, SUITE 200
MENLO PART, CA 94025

In re Application of	:	
Leo M. Chalupa et al.	:	
Serial No. 10/198,003	:	**PETITION DECISION**
Filed: July 17, 2002	:	
For: IMMUNOSELECTIVE TARGETING	:	
AGENTS AND METHODS OF USE	:	
THEREOF	:	

This is in response to the Petition to Accept Color Photographs or Drawings as set forth in 37 C.F.R. 1.84.

A review of the file history shows that three sets of color photographs and one black and white set of drawings were filed on July 17, 2002. The color photographs are deemed necessary to accurately represent selective binding of an immunoselective targeting agent to target cells, which is measured by immunofluorescence having specific color emissions.

The petition is **GRANTED.**

Should there be any questions about this decision, please contact Brenda Brumback by telephone at (571) 272-0961 or by letter addressed to Director, TC1600, P.O. Box 1450, Alexandria, VA 22313-1450 or by facsimile sent to the general Office facsimile number..

Brenda Brumback

Brenda Brumback
Supervisory patent Examiner Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED Paper No. 4

APR 14 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

In re Application of:
Fitzsimmons et al.
Application No. 10/198,017
Filed: July 17, 2002
For: REMOTE MONITORING SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 4, 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 fifth criterion above is deemed to have been implicitly met from the filing of a parent application (10/142,236) under 35 USC § 120 in accordance with CFR 1.98(d) and MPEP § 609, III A(2). Thus 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 19

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET SUITE 2200
PHILADELPHIA PA 19103-7013

COPY MAILED

MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Fitzsimmons, et al.	:	
Application No. 10/198,017	:	DECISION ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. 8816-5U1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 1, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 4, 2003. Applicant filed an amendment on December 4, 2003. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on March 30, 2004, informing applicant that the amendment would not be entered. No additional reply with an extension of time having been received, the above-identified application became abandoned on March 5, 2003. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of a previously filed amendment.

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, as the $1005 fee extension of time fee submitted with the petition on April 21, 2004 was subsequent to the maximum period obtainable for reply (March 4, 2004), this fee has been refunded to petitioner's Deposit Account No. 50-1017.

The application file is being forwarded to Group Art Unit 2611 for consideration of the RCE, filed April 21, 2004.

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

Cliff Congo

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

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MAR 3 1 2006

OFFICE OF PETITIONS

MILLEN, WHITE, ZELANO & BRANIGAN
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:	
Johannes Platzek et al	:	
Application No. 10/198,046	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. LEDER-6	:	

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 January 6, 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 1624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

COPY MAILED
OCT 27 2008

In re Application of :
David L. Huelsman :
Application No. 10/198,100 : ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. 9612-0007 :

This is a decision on the petition filed June 10, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

In response to a non-Final Office Action mailed December 14, 2005, amendments were filed June 14, 2006, with a three month extension of time, and on September 6, 2006, December 1, 2006 and February 28, 2007 in response to Notices of Non-Compliant Amendments mailed. Further a Notice Requiring Excess Claims Fees was mailed March 14, 2007 and a response denying that excess claims fees were due was filed April 13, 2007. A Notice of Abandonment was mailed April1 15, 2008 noting that as amended, the application has two sets of outstanding claims, that the fee for one set of claims was never paid and the period to pay for such fees has expired.

The instant petition to revive includes an amendment which attempts to clarify the claim status.

---

[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)).

All other requirements having been met , this matter is being referred to Technology Center 2129 for appropriate action on the amendment filed June 10, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: David L. Huelsman	: DECISION ON REQUEST FOR
Patent Number	: 7587379	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/198,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1654** 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 : February 6, 2009

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/198108 Patent No.: 7385730

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

/Edward L. Coles/
SPE

2625
Art Unit

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

LOWE, HAUPTMAN, GOPSTEIN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria VA 22314

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Huang, et al.
Application No. 10/198,136
Filed: July 19, 2002
Attorney Docket No. 4425-264
For: LAMP PROTECTION DEVICE

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53, filed October 11, 2002, requesting in effect withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 15, 2002 .

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on July 19, 2002. On August 15, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 2 described in the specification appeared to have been omitted. At first review of the application file, it is apparent that the Notice should have stated that drawing figure 1C was omitted also because only one sheet of drawing figures, including 1A and 1B, is present in the application file and the specification describes Figures 1A, 1B, 1C, and 2. Petitioners arguments in favor of a July 19, 2002 filing date for drawing figure 2 will be considered with respect to drawing figure 1C, as well.

Petitioners request that drawing figure 2 be accorded a filing date of July 19, 2002 on the basis that 2 sheets of drawing figures, including drawing figure 2, were received in the Patent and Trademark Office (PTO) on July 19, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing July 19, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 2 sheets of drawings. The application file contains only one sheet of drawings.

The return postcard constitutes *prima facie* evidence that 2 sheets of drawing figures, including drawing figures 1C and 2, were filed on July 19, 2002. MPEP 503. Accordingly, the request is **granted**.

Pursuant to petitioners' authorization, deposit account no. 07-1337 will be credited the $130.00 petition fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of July 19, 2002, using the sheet of drawings containing drawing figures 1C and 2 that were submitted with the instant petition. Office records will be corrected to show that 2 sheets of drawings were present on filing.

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

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

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

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 12/06/02

2 Serial/Patent # 10/198,136

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	10/11/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 07--1337

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Allegedly omitted item present when filed - postcard proves it. refund pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Petitions Atty

SIGNATURE: E Shirene Willis PHONE: 308 1712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Olivia Kelly DATE: 12/13/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,669,513	2003-12-30	10198147	2002-07-19	3123-077

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2009-06-30
Name	Bruce H. Troxell	Registration Number	26592

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 6669513
Issue Date: December 30,2003
Application No. 10198147
Filed: July 19,2002
Attorney Docket No. BHT-3123-77

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

This is a decision on the electronic petition, filed June 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 30,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NATH & ASSOCIATES
1030 15TH STREET NW, 6TH FLOOR
WASHINGTON, DC 20005

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of	:
Timothy W. Clark	:
Application No. 10/198,161	: DECISION GRANTING PETITION
Filed: July 19, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 25049	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3731 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).*

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/9/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 2834

SUBJECT : Certificate of Correction Request in Patent No.: 6,819,016

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

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

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ YES ☐ NO

☐ Comments: _____

Darren Schuberg
Supervisor

2834
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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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Yousef Georges Aouad, et al.	:	
Application No. 10/198,195	:	ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. 8647M	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 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 March 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 2, 2004.

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

The application matter is being referred to Technology Center 1700, Art Unit 1751 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 05132005

MAY 25 2005

INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

In re Application of Jon SLAUGHTER et al. Application No. 10/198,203 Filed: July 17, 2002 Attorney Docket No. CR01-013	: : : : : :	DECISION ON PETITION

This is a decision on the petition filed October 4, 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 non-final Office action was mailed December 16, 2003, setting a shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed September 30, 2004.

Petitioner asserts that a complete reply to the December 16, 2003 non-final Office action, entitled "Amendment Under 37 CFR § 1.115," which included a request for a one-month Extension of Time fee, was timely filed by facsimile transmission on March 30, 2004. To support the assertion, petitioner submitted a copy of the response entitled "Amendment Under 37 CFR § 1.115," which includes a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated March 30, 2004 and a copy of the sending unit's report confirming transmission of the Amendment Under 37 CFR § 1.115.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it is transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the

> previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

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

The application file is being forwarded to the technical support staff for processing the Amendment Under 37 CFR § 1.115 and the Extension of Time fee for one month. From there, it will be returned to the examiner for further prosecution.

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

James L. Dwyer, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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Milliken & Company
P.O. Box 1927
Spartanburg SC 29304

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MAR 1 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Higgins et al.	:	
Application No. 10/198,238	:	DECISION ON PETITION
Filed: 07-18-2002	:	
Attorney Docket No. 5113G	:	

This is a decision on the petition under 37 CFR 1.181, filed January 12, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed October 28, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 28, 2006.

Petitioners request that the Office withdraw the holding of abandonment because they did not receive the nonfinal Office action of October 28, 2005.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish non-receipt of the nonfinal Office action of October 28, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b). 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), an additional $1,500.00 for a large entity and $750.00 for a small entity;

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

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d), unless previously filed.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
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
www.uspto.gov

Milliken & Company
P.O. Box 1927
Spartanburg SC 29304

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OFFICE OF PETITIONS

In re Application of
Higgins et al.
Application No. 10/198,238
Filed: 07-18-2002
Attorney Docket No. 5113G

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181, filed May 14, 2007, to withdraw the holding of abandonment in the above-identified application.

This application was held abandoned for failure to reply to the nonfinal Office action mailed October 28, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 28, 2006.

Petitioners request that the Office withdraw the holding of abandonment because they did not receive the nonfinal Office action of October 28, 2005.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal Office Action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required. The Office acknowledges receipt of the amendment submitted on January 12, 2007.

The matter is being referred to the Technology Center Art Unit 1771 for review of the amendment filed on January 12, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

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SEP 25 2008

In re Patent No. 6,875,193 :
Issue Date: April 5, 2005 :
Application No. 10/198,264 : DECISION GRANTING PETITION
Filed: July 16, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PS/08-019.D.CIp1.CIP :

This is a decision on the petition, filed July 15, 2008, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 23, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

This application matured into Patent No. 6,875,193 on April 5, 2005. Therefore, no further action is required.

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA, PA 15051

RECEIVED

DEC 30 2008

OFFICE OF PETITIONS

In re Patent No. 6,875,193	:	
Issue Date. April 5, 2005	:	
Application No. 10/198,264	:	NOTICE
Filed: July 16, 2002	:	
Attorney Docket No. PS/08-019.D.CIP1.CIP	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/3/2009

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/198,288 Patent No.: 6,955,342

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 – 9D10-A
Palm Location 7580

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

Comments: All changes within claims were in amended claims at time of allowance and should have appeared as requested in the printed patent. Approved Scott Bushey, Primary Examiner, AU 1797

SPE /Duane Smith/ SPE **ART UNIT** 1797

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/3/2009

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/198,288 Patent No.: 6,955,342

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 – 9D10-A
Palm Location 7580

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

Comments: All changes within claims were in amended claims at time of allowance and should have appeared as requested in the printed patent. Approved Scott Bushey, Primary Examiner, AU 1797

SPE /Duane Smith/ SPE **ART UNIT** 1797

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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MORGAN LEWIS & BOCKIUS LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
SUITE 700
PALO ALTO CA 94306-2212

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Zias, et al.	:	
Application No. 10/198,304	:	DECISION ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. 060981-0030	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 1, 2005.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed August 19, 2004. Applicants filed an amendment on October 27, 2004. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on February 15, 2005, informing applicants that the amendment would not be entered. No additional reply with an extension of time having been received, the above-identified application became abandoned on November 20, 2004. A Notice of Abandonment was mailed on May 12, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of an amendment.

The application file is being forwarded to Group Art Unit 2855 for consideration of the RCE, filed July 1, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

DONALD A. NISSEN
SANDIA NATIONAL LABORATORIES
MS 9031
7011 EAST AVENUE
LIVERMORE, CA 94550

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NOV 18 2002
OFFICE OF PETITIONS

In re Application of	:	
Michael E. Malinowski	:	DECISION GRANTING
Application No. 10/198,307	:	PETITION
Filed: July 17, 2002	:	
Attorney Docket No. SD-8407	:	

This is a decision on the petition under 37 CFR 1.10(c) filed September 30, 2002, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of July 17, 2002, rather than the presently accorded filing date of July 19, 2002.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on July 17, 2002, pursuant to the requirements of 37 CFR 1.10. In support, applicant provided, inter alia, a copy of the Express Mail label, receipt no. EL177881953US. The same Express Mail receipt number appears on the copy of the original transmittal letter found in the file. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes an official USPS notation in the form of a "Livermore CA USPS" receipt stamp dated "July 17, 2002".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on July 17, 2002.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to July 17, 2002.

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

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of :
DONG SEOK LEE et al. :
Application No. 10/198,320 : DECISION ON PETITION
Filed: July 18, 2002 :
Attorney Docket No. 9242-000017 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed January 06, 2006, which set a shortened statutory period for reply of three (3) months. No Extensions of time under the provision of CFR 1.136 (a) was obtained. Accordingly, the above-identified application became abandoned on April 07, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the final Office Action of January 06, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence to the undersigned.

This application is being referred to Technology Center AU 2173 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 12 2004

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Jack C. Munro
Agent of Record
Suite 225
28720 Roadside Drive
Agoura Hills, CA 91301

Paper No. 6

In re Application of Michael Dorner Serial No. : 10/198,352 Filed : July 17, 2002 For : Exercise Stand	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request received May 3, 2004, to review the holding of abandonment mailed April 20, 2004, for failure to respond to the Office action mailed October 10, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated November 3, 2003 as evidence that the response was timely filed.

In view of the above, the Notice of Abandonment mailed April 20, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed November 3, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/05/04/04

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Dennis Fernandez
Fernandez & Associates, LLP
Patent Attorneys
P.O. Box D
Menlo Park, CA 94026-6204

NOV 23 2004

In re Application of:	:
Broekaert et al.	: DECISION ON PETITION
Serial Number: 10/198,392	: TO WITHDRAW THE HOLDING
Filed: 07/16/02	: OF ABANDONMENT
For: Method and System for Reducing Parasitic	:
Feedback and Parasitic Resonances in High-Gain	:
Transimpedance Amplifiers	:

This is a decision on the petition filed on April 05, 2004 requesting the withdrawal of the holding of abandonment under 37 CFR 1.181. The subject application was held abandoned due to Applicant's failure to respond to the Office action mailed August 06, 2003. The Petitioner's request is based upon Applicant's assertion that said Office action was not received.

The Petition is ***granted***.

The petition has been considered and found to comply with the requirements set forth in section 711.03(C) of the Manual of Patent Examining Procedure. Petitioner's statement of non-receipt and the attached copy of the docketing records are sufficient evidence to establish that Applicant did not receive the last Office action. Therefore, the holding of abandonment is withdrawn. A copy of the last Office action will be sent to Applicant with a shortened statutory period for response set to run three months from the mailing date of said action.

James L. Dwyer, Director
Technology Center 2800
Physics, Optical Systems and Components and Electrical Engineering

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Washington, D.C. 20231
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Paper No. 5

Robert P. Renke
Suite 250
28333 Telegraph Road
Southfield, MI 48034

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FEB 13 2003

OFFICE OF PETITIONS

In re Application of:
Stefan Stowe, Michael Seifert and Alexander Eilez
Application No. 10/198,445
Filed: July 17, 2002
Title of Invention: ELECTRIC CIRCUIT TO CONTROL AN AIR-CONDITIONED SEAT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 15, 2002 (Certificate of Mailing dated October 9, 2002), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). A five (5) month extension of time is requested and is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 17, 2002, without a fully executed oath or declaration. Accordingly, on August 13, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition and Declaration wherein Petitioner avers, in relevant part, that "a combined Declaration and Power of Attorney was sent to Mr. Eilez for his signature along with a copy of the application. However, his employer ... indicated that Mr. Eilez no longer works for the company and they do not have a current address for him". *Declaration* at p.2.

Applicable Law:

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.

It is initially noted that 37 CFR 1.47(a) provides for two separate and distinct circumstances: one where the inventor refuses to join the application after having been presented with the application for signature, and the other where an inventor cannot be found or reached after diligent effort.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to *the last known address of the nonsigning inventor*, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. Emphasis supplied.

MPEP 409.03(d).

As required by the MPEP, a copy of the application should be sent to the last known address of the nonsigning inventor(s). The last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP 409.03(e) and 605.03.

Further as to item (1), if inventor Eilez is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. Emphasis supplied. See, MPEP § 409.03(d). At the very least, a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor at the last known address of the inventor before refusal can be alleged.

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 concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert P. Renke
Suite 250
28333 Telegraph Road
Southfield, MI 48034

Paper No. 7

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of:
Stefan Stowe, Michael Seifert and Alexander Eilez
Application No. 10/198,445
Filed: July 17, 2002
Title of Invention: ELECTRIC CIRCUIT TO CONTROL AN AIR-CONDITIONED SEAT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This Decision is in response to a Request for Reconsideration of Petition Under 37 C.F.R. 1.47(a), filed May 19, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). A one (1) month extension of time is requested and is hereby granted.

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, Alexander Eilez, refuses to sign the declaration.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Alexander Eilez
Zugspitzstrasse 12
81541 München
Germany

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of:
Stefan Stowe, Michael Seifert
and Alexander Eilez
Application No. 10/198,445
Filed: July 17, 2002
Title of Invention: ELECTRIC
CIRCUIT TO CONTROL AN
AIR-CONDITIONED SEAT

LETTER

Dear Mr. Eilez:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Robert P. Renke
Suite 250
28333 Telegraph Road
Southfield, MI 48034

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San Francisco CA 94107

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of
Robert G. Chapman et al.
Application No. 10/198,465
Filed: July 17, 2002
Attorney Docket No. 002800US

ON PETITION

This is a decision on the petition, filed June 4, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed July 11, 2003. An amendment filed October 21, 2003 and one month extension of time filed November 4, 2003 were considered and the applicant was advised in an advisory action mailed October 17, 2003 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned on October 12, 2003. This petition precedes the mailing of a Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee required by 37 CFR 1.17(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of July 11, 2003, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on April 22, 2002, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497. Effective September 29, 2004, the telephone number will be (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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475 BRANNAN STREET
SAN FRANCISCO CA 94107

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Robert G. Chapman et al.
Application No. 10/198,465
Filed: July 17, 2002
Attorney Docket No. 002800US

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 3, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed July 11, 2003. An amendment filed October 21, 2003 and one month extension of time filed November 4, 2003 was considered but the applicant was advised in an advisory action mailed October 17, 2003, that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned on October 12, 2003. A petition filed June 4, 2004 was dismissed in a decision mailed September 21, 2004 because the amendment submitted with the petition still did not prima facie place the application in condition for allowance. Petitioner was advised that the response required for a renewed petition would be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11. After the mailing of the decision, a Notice of Abandonment was mailed October 22, 2004.

Comes now petitioner with the instant renewed petition under 37 CFR 1.137(b)[1], a two

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee required by 37 CFR 1.17(l);

(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

month extension of time and a Notice of Appeal as the required response.

Please be advised that the decision dismissing the petition was dated and mailed September 21, 2004. That decision set a two month period for reply therefore, a renewed petition would have to have been filed by November 21, 2004 or with extensions of time up through March 21, 2005. The instant renewed petition and two month extension of time request were filed January 31, 2005 (certificate of mail date). Therefore since the request for extension of time only extended the response through to January 21, 2005, an additional extension of time for one month would have been required. In view thereof and in accordance with the authorization found in the Notice of Appeal to charge petitioner's deposit account, an attempt therefore was made to debit deposit account no. 50-2822, however, the deposit account was insufficient to collect the funds necessary for consideration of the petition on its merits. The fees required for the additional one month extension of time was $570.00. The balance of the deposit account was $470.00.

Therefore, the petition does not satisfy requirement (1) above.

A courtesy telephone call was placed to petitioner on Thursday, June 23, 2005 to advise petitioner to replenish deposit account no. 50-2822 but as of the date of mailing of this decision, the deposit account was still insufficient.

Petitioner must submit $570.00 with another renewed petition before the Notice of Appeal will be entered and the application revived.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

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MDS
1170 VETERAN'S BLVD.
SUITE 200
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Application of :
Robert G. Chapman et al. :
Application No. 10/198,465 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No.: 002800US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 11, 2003. An amendment filed October 21, 2003 and one month extension of time filed November 4, 2003 was considered but the applicant was advised in an advisory action mailed October 17, 2003, that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned on October 12, 2003. A petition filed June 4, 2004 was dismissed in a decision mailed September 21, 2004 because the amendment submitted with the petition still did not prima facie place the application in condition for allowance. Petitioner was advised that the response required for a renewed petition would be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11. The decision mailed September 21, 2004 set a two month period for reply therefore, a renewed petition would have to have been filed by November 21, 2004 or with extensions of time up through March 21, 2005. A renewed petition to revive was filed February 3, 2005 with a two month extension of time request. However, the extension of time only extended the response through to January 21, 2005, an additional extension of time for one month would have been required. In view thereof, the renewed petition was dismissed in a decision mailed June 28, 2005. The instant second renewed petition and check in the amount of $570.00 for the additional month extension of time are acknowledged for consideration of the Notice of Appeal.

The Notice of Appeal filed February 3, 2005 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The application is being forwarded to Technology Center 1637 for processing of the Notice of Appeal.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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)
6,615,923	2003-09-09	10/198,470	2002-07-17	ARNING

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	/karen tripp/	Date (YYYY-MM-DD)	2008-01-13
Name	Karen B. Tripp	Registration Number	30452

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. 6615923
Issue Date: September 9,2003
Application No. 10198470
Filed: July 17,2002
Attorney Docket No. 8512-56137

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

This is a decision on the electronic petition, filed January 14,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 14,2008 . 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.

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

MAY 12 2004

In re Application of	:	
Fabien Moreau & Eric Gross	:	NOTICE OF WITHDRAWAL
Serial No. 10/198485	:	FROM ISSUE
Filed: July 18, 2002	:	UNDER 37 CFR 1.313
For: AIR FILTER UNIT FOR A VEHICLE	:	
WITH AN INTERNAL COMBUSTION ENGINE	:	

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 to permit reopening. An office action from the examiner will follow in due course.

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 Blaine Copenheaver at (571) 272-1156.

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

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CHAPMAN AND CUTLER
111 WEST MONROE STREET
CHICAGO IL 60603

CC: Allowed Files

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 12 2004

In re Application of	:	
Fabien Moreau & Eric Gross	:	NOTICE OF WITHDRAWAL
Serial No. 10/198485	:	FROM ISSUE
Filed: July 18, 2002	:	UNDER 37 CFR 1.313
For: AIR FILTER UNIT FOR A VEHICLE	:	
WITH AN INTERNAL COMBUSTION ENGINE	:	

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Telephone inquiries should be directed to Blaine Copenheaver at (571) 272-1156.

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

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CHAPMAN AND CUTLER
111 WEST MONROE STREET
CHICAGO IL 60603

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THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

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OFFICE OF PETITIONS

In re Application of	:	
Judy Chu, et. al.	:	
Application No. 10/198,489	:	ON PETITION
Filed: July 18, 2002	:	
Attorney Docket No. DN2002093	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The application became abandoned for failure to take appropriate action, after the decision by the Board of Patent Appeals and Interferences mailed November 15, 2006. Consequently, no claim was allowed and the proceedings as to the rejected claims were terminated[1].

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/705,022.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* 37 CFR 1.197(b) and MPEP 1214.06.

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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MAY 18 2006

OFFICE OF PETITIONS

In re Patent No. 6,781,475 :

Issue Date: August 24, 2004 :

Application No. 10/198,494 : ON PETITION

Filed: July 18, 2002 :

Attorney Docket No. **NL010500**

This is a decision on the "Petition under 37 CFR 1.183" filed March 13, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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MAIL

Paper No. 8

JUN 1 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of: Mary Ann Freeman, et al.)
Application No. 10/198,510)
Filed: July 17, 2002) **DECISION ON REQUEST FOR**
For: GENERATED CODE FROM) **WITHDRAWAL AS ATTORNEY**
GRAPHICAL USER INTERFACE)

This is a decision on the Request To Withdraw from Representation filed May 22, 2003.

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

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Thomas V. Smurzynski, Esq.
Lahive & Cockfield LLP
28 State Street
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 2 1 2005

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

In re Application of	:	
Roy K. Pierce	:	**DECISION ON PETITION**
Appl. No. 10/198587	:	**UNDER 37 CFR 1.181**
Filed: July 18, 2002	:	
For: GROOVED VALVE SEAT WITH INLAY	:	

This is a decision on Applicant's Petition under 37 C.F.R. 1.181 filed on December 30, 2004 to request an issuance of the corrected letters patent. No fee is required for the petition.

The petition is dismissed.

Petitioner argues that that Letters Patent No. 6,817,594 was incorrectly published with the claims from its parent patent, Letters Patent No. 6,666,433, rather than the claims allowed by Examiner. Petitioner asserts that a Certificate of Correction would be inappropriate because it would fail to appear in a claim field text search. Accordingly, Petitioner requests an issuance of Letters Patent No. 6,817,594 with the corrected claims pursuant to 37 C.F.R. 1.322(b).

Review of the record shows that the wrong claims were in fact issued. On October 03, 2002, Petitioner cancelled the original claims and replaced them with new claims 27-32, which were subsequently rejected by Examiner on November 20, 2003 due to an obviousness type double patenting rejection. In response to the rejection, Petitioner filed a terminal disclaimer on April 22, 2004, and a notice of allowance was filed for the application with new claims 27-32. A comparison of the issued claims to the claims that should have been issued evidences that the claims actually published were those of the parent patent.

The issued claims embody a grooved valve seat with inlay while the claims that should have been issued embody a method for the controlled flow of fluid. However, the latter claims appear to be an obvious variant of the former claims, which also seems to justify the obvious type double patenting rejection. Therefore, contrary to Petitioner's assertions, key words from the issued patent will still show up in a claim field text search.

Moreover, while the term "method" is not present in the issued claims, text searching is a craft that involves variations in text searches in order to find the pertinent art. It should also be noted that "method" is sometimes represented by other terms, such as "system". Furthermore, there are

no absolute requirements that the term "method" be used in a method claim; specifically, the preamble could alternatively have stated "controlling flow of fluid comprising: ".

Accordingly, reissuance is not seen as necessary and Petitioner should file a request for a Certificate of Correction under 37 C.F.R. 1.322(a)(1). Pursuant to MPEP 606, Petitioner should also request that the title be changed in order to accurately reflect the method claim. In accordance with 35 U.S.C. 254, there will be no fee charged for this Certificate of Correction.

PETITION DISMISSED.

Any questions regarding this decision should be directed to Special Program Examiner Allan N. Shoap at 571-272-4514.

Karen M. Young

Karen M. Young
Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/22/07

TO SPE OF : ART UNIT 3732 Chris Rodriguez (SpE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/198587 Patent No.: 6817594B2

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

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

Comments: _____

CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3738
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MURAMATSU & ASSOCIATES
114 PACIFICA
SUITE 310
IRVINE CA 92618

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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of
Ihung S. Tu
Application No. 10/198,596
Filed: July 18, 2002
Attorney Docket No. ALPINE.017AUS

DECISION ON PETITION

This is a decision on the petition filed September 26, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment.

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

The petition is filed in response to a Notice of Abandonment mailed April 21, 2005, stating that the application became abandoned for a failure to respond to an Office action mailed May 5, 2004.

However, a review of the records indicates that a timely response to the final Office action mailed May 5, 2004 was received on August 16, 2004; using a certificate of mailing under 37 CFR 1.8 dated August 4, 2004. On September 10, 2004, the examiner mailed an Advisory action to which petitioner responded with a proper Request for Continued Examination (RCE) under 37 CFR 1.114 and a 2-month extension of time on October 12, 2004. It is noted that papers filed October 12, 2004 are considered timely since the papers contained a proper certificate of mailing under 37 CFR 1.8 dated on October 4, 2004.

In view of the above, no abandonment existed. Accordingly, the petition under 37 CFR 1.137(b) is unnecessary and the $750 petition fee is subject to refund. Any requests for refunds must be in writing and a copy of the decision must be attached. The Notice of Abandonment mailed April 21, 2005, is hereby vacated.

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

This application is being referred to the Technology Center technical support staff of Art Unit 3661 for (1) withdrawing the holding of abandonment and (2) further processing of the RCE filed October 12, 2004.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 04 03

Paper No. 4

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

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MAY 05 2003

OFFICE OF PETITIONS

In re Application of	:
Milculka, et al.	: DECISION DISMISSING
Application No. 10/198,601	: PETITION
Filed: July 19, 2002	:
Attorney Docket No. P 0280769	:

This is a decision on the petition filed on March 20, 2003, which is treated as a petition under 37 CFR 1.181 filed pursuant to 37 CFR 1.53(e) after issuance of a notice indicating that the original application papers lacked a portion of the specification.

The petition is **dismissed**.

On, July 19, 2002, the application was filed.

On August 20, 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") stating that the application had been accorded a filing date of July 19, 2002, but that, *inter alia*, page 11 of the specification (description and claims) appeared to have been omitted.

In response, on March 20, 2003, the present petition was filed, accompanied by a petition fee of $130.00, and a request for an extension of time within the fifth month pursuant to 37 CFR 1.136(a). Petitioners assert that page 11 of the specification was not missing on July 19, 2002. Rather, the specification was misnumbered. Petitioner has included with the instant petition a substitute specification that includes a page numbered 11.

Upon review of the petition and application file, it is obvious that no pages of the specification were actually missing on July 19, 2002. Rather, the original specification was misnumbered in that it included a page that had no number that should have been numbered "11." Petitioner is advised that the pages of the specification, including claims and abstract, must be numbered

consecutively.[1] The Notice mailed August 20, 2002, was correct in stating that Page 11 of the specification appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

Accordingly, the petition is dismissed.

The petition fee will not be refunded as the petition was not due to an error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of July 19, 2002, using the application papers filed on that date.

In the normal course, petitioner would be instructed to file a substitute specification by preliminary amendment, however; petitioner included a properly numbered specification with the instant petition. Accordingly, after routing the application file to the Office of Initial Patent Examination, the application will be forwarded to the appropriate group art unit for consideration by the examiner of substitute specification as a preliminary amendment.

The declarations filed March 20, 2003, are noted and made of record.

The abstract filed March 20, 2003, is noted and made of record.

The sequence listing filed March 20, 2003, is noted made of record.

The preliminary amendment filed March 20, 2003, amending the substitute specification is noted and made of record.

Telephone inquires should be directed to Kenya A. McLaughlin, Petitions Attorney at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

[1] 37 CFR 1.52(b)(5).

OIPE
MAR 2 0 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF

MICULKA

Appln. No.: 10/198,601

Filed: July 19, 2002

Title: NOVEL SUBSTANCE LIBRARY AND SUPRAMOLECULAR COMPLEXES PRODUCED THEREWITH

Group Art Unit: TBA

Examiner: TBA

March 20, 2003

* * * * *

PETITION TO ACCEPT PROPERLY FILED APPLICATION, RESPONSE TO NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION, AND PRELIMINARY AMENDMENT

Commissioner for Patents
Box Petition
Washington, D.C. 20231

Sir:

This is in response to the to "Notice to File Missing Parts of Non-Provisional Application" dated August 20, 2002.

I. PETITION

In response to the alleged missing page issue set forth on page two of the aforementioned notice of missing parts, the applicants respectfully petition the Patent Office to award the filing date of 19 July 2002 as the correct filing date in that the entire specification was properly filed on that date. The Patent Office's confusion has been noted and is understandable with respect to alleged missing page 11. Upon investigation, the applicants submit that no pages are missing. Rather, the pages were mis-numbered. To correct this confusion and by the amendment set forth below, the applicants have enclosed herewith a substitute specification. Enclosed is the patent application process fee of $130 for consideration of this petition.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090114

DATE : 01/13/09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10198618 Patent No.: 7415662 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

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: These Changes are reflected in the Bib Data Sheet in eDan (scanned 5/6/05). /RS/

/John Breeene/ SPE AU 2162

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090114

DATE : 01/13/09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10198618 Patent No.: 7415662 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

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

Comments: These Changes are reflected in the Bib Data Sheet in eDan (scanned 5/6/05). /RS/

/John Breeene/ SPE AU 2162

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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

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JUN 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,415,662	:	ON PETITION
Rothmuller, et al.	:	under 37 CFR 1.183
Issue Date: August 19, 2008	:	
Application No. 10/198,618	:	and
Filed: July 17, 2002	:	
Attorney Docket No. 07844-524003 / B012 C1	:	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on December 22, 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 August 19, 2008, the above-identified application matured into U.S. Patent No.7,415,662, with a revised patent term adjustment of 536 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. Patentees now petition 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 Request for Reconsideration of Patent Term Adjustment. Patentees make this request, in view of the "exceptional" situation presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 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 August 19, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 22, 2008. Petitioners request 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 October 19, 2008, the date two months from the date this patent issued, August 19, 2008. Rather, on December 22, 2008, almost three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioners 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

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

such, it is within the Director's authority to waive the two-month requirement.

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

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 patentees had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioners chose not to challenge their revised patent term adjustment within the two-month period. Petitioners' 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

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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.

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. Petitioners could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioners 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 petitioners with respect to the Wyeth decision.

The key consideration in determining whether waiver is warranted is whether the circumstance that led to petitioners failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioners simply fail 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. Petitioners 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 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 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 22, 2008. Therein, patentees request correction of the patent term adjustment (PTA) indicated in the patent to seven hundred sixty-one (761) days.

On August 19, 2008, the above-identified application matured into U.S. Patent No. 7,415,662 with a revised patent term adjustment of 536 days. The instant request for reconsideration was filed more than four months after the issuance of the patent, on December 22, 2008.

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

CONCLUSION

The request for waiver of 37 CFR 1.705(d) 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.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of	:	
Geoffrey HENDREY et al.	:	
Application No. 10/198,622	:	DECISION ON PETITION
Filed: July 17, 2002	:	
Attorney Docket No. **20662-07049**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 07, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 08, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of November 07, 2007 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 2617 for appropriate action filed on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DANIEL R. BROWSTONE**
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 20662-07049

First named Inventor: Geoffrey R. Hendrey

Application No.: 10/198,622

Art Unit: 2617

Filed: July 17, 2002

Examiner: Brandon J. Miller

Title: System and Methods for Initiating Responses to Location-Based Events

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 $ 770 (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 Amendment D (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.

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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.

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.

/Daniel R. Brownstone 46581/ Signature	May 14, 2008 Date
Daniel R. Brownstone Typed or printed name	46,581 Registration Number, if applicable
801 California St., Mountain View, CA 94041 Address	415-875-2359 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.

May 14, 2008 Date	/Daniel R. Brownstone 46581/ Signature
	Daniel R. Brownstone Typed or printed name of person signing certificate

PAGE 5/13 * RCVD AT 5/14/2008 11:40:13 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/10 * DNIS:2738300 * CSID:4156434578 * DURATION (mm-ss):02-02

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Paper No. 6

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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OFFICE OF PETITIONS

In re Application of	:
Emmanuel L. Huna	:
Application No. 10/198,624	: DECISION DISMISSING
Filed: 18 July, 2002	: PETITION
Atty Dkt. MSFT 4949.1 (MS#180502.2)	:

This is a decision on the petition filed on 24 September, 2002, requesting that the above-identified application be accorded a filing date of 18 July, 2002, with Page 51 as a part of the original disclosure.

On 18 July, 2002, the application was filed.

On 22 August, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 18 July, 2002, but that Page 51 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 24 September, 2002, the present petition was filed. Petitioners state that Page 51 was present among the application papers filed on 18 July, 2002, and that counsel's internal Express Mail log shows that the application papers were checked and confirmed by counsel's secretary. Petitioners further assert that the above-identified application is a continuation of Application No. 09/298,524, and incorporated the entire disclosure of the prior application by reference.

The petition is <u>dismissed</u>.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A

review of the papers originally filed reveals that no Page 51 of the specification was received on 18 July, 2002. Page 51 of the specification was not filed on 18 July, 2002, since no such Page is present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Counsel's assertion in the petition that Page 51 was filed with the application papers deposited on 18 July, 2002, is not more persuasive than the contents of the official USPTO file.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of section 503 of the Manual of Patent Examining Procedure (MPEP).[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the

[1]The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

postcard.[2]

In summary, since Page 51 of the specification was not a part of the papers filed on 18 July, 2002, the application cannot be accorded the 18 July, 2002, filing date with this specification Page as a part of the original disclosure of this application. Furthermore, counsel's personal records evidence, at best, petitioners' intent to file Page 51 of the specification. Petitioners simply have no persuasive evidence that Page 51 of the specification was among the application papers received in the USPTO on 18 July, 2002.

It is noted that the Utility Patent Application Transmittal filed with the original application papers states that the present application is a continuation of Application No. 09/268,524, filed on 11 March, 1999, and that the entire disclosure of the prior application is hereby incorporated by reference therein.

MPEP 201.06(c) states that:

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

Obviously, in view of the incorporation by reference of the prior application, Page 51 of the specification is not new matter if it was a part of the disclosure of the prior application.

Petitioner should file Page 51 as a preliminary amendment. If Page 51 is filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of Page 51 filed with the present petition will not be processed for examination, but will be retained in the application file.

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[2] MPEP 503.

Receipt is acknowledged of the substitute specification filed to comply with 37 CFR 1.52 on 24 September, 2002. The substitute specification is not part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 18 July, 2002, using only the application papers filed on that date.

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

D Wood

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

Patentansprüche

1. Verfahren zum Versenden von Sprachnachrichten zwischen Fernsprechteilnehmern, die über Endgeräte (A, B) an ein Fernmeldenetz (N) angeschlossen sind, welches insbesondere mit Einrichtungen für ein intelligentes Netz (IN) versehen ist, wobei ein Anrufer nach Anwahl eines bestimmten Dienstes mit einem Diensterechner (S) verbunden wird und diesem eine Sprachnachricht übermittelt **dadurch gekennzeichnet, dass** der Anrufer (A) die gewünschten Adressaten (B) zu dieser Sprachnachricht an den Diensterechner (S) übermittelt, wobei die Sprachnachricht automatisch an die Adressaten (B) vermittelt wird.

2. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** der Anrufer (A) den gewünschten Versendezeitpunkt der Sprachnachricht an den Diensterechner (S) übermittelt.

3. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** der Anrufer ein Zeitfenster übermittelt, in dem Vermittlungsversuche stattfinden sollen.

4. Verfahren nach Anspruch 1 **dadurch g kennz ichn t, dass** die Übermittlung der Adressaten durch Eingabe der Telefonnummer erfolgt.

5. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** die Übermittlung der Adressaten durch Eingabe von vorher mit dem Diensteanbieter vereinbarten Namen für je eine Telefonnummer erfolgt.

6. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** die Übermittlung der Adressaten durch Eingabe von vorher mit dem Diensteanbieter vereinbarten Kennungen für bestimmte Teilnehmerkreise erfolgt.

7. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** die Übermittlung der gewünschten Adressaten mittels der Texteingabe erfolgt.

8. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** die Übermittlung der Adressaten mittels Spracheingabe erfolgt und eine Spracherkennung im Diensterechner vorgenommen wird.

9. Verfahren nach Anspruch 1 **dadurch gekennzeichnet, dass** die Eingaben des Anrufers im Diensterechner auf Plausibilität und Eindeutigkeit überprüft werden, und dieser gegebenenfalls zu einer erneuten Eingabe aufgefordert wird.

10. System bestehend aus einem Fernmeldenetz, einem oder mehreren Diensterechnern und Endgeräten, wobei Sprachnachrichten des Anrufers im Diensterechner gespeichert sind **dadurch gekennzeichnet, dass** zusätzlich die Adressaten (Teilnehmerkreis) einer Sprachnachricht im Diensterechner gespeichert sind, wobei der Diensterechner diese Nachricht automatisch an die Adressaten vermittelt.

11. Diensterechner (S), insbesondere in Verbindung mit einer Intelligenten Netzeinrichtung (IN), der mit einem Fernmeldenetz (N) verbundenen ist, mit einer Funktion zur Speicherung von Sprachinformation (SP) in einem Speichermedium (MEM), einer Funktion zur Spracherkennung (EF) und einer Funktion zur Sprachausgabe (AF) **dadurch gekennzeichnet, dass** die vom Anrufer (A) übergebene Sprachinformation mindestens aus einer Sprachnachricht und der Adresseninformation besteht, die Ermittlung der Telefonnummern der Adressaten (B) durch Analyse der Adresseninformation durch die Spracherkennungsfunktion (EF) erfolgt, eine Anwählfunktion (WF) automatisch Verbindungen zu den Adressaten (B) veranlasst wird und die Sprachnachricht durch die Sprachausgabefunktion (AF) übermittelt wird.

12. Diensterechner nach Anspruch 11 **dadurch gekennzeichnet, dass** eine Funktion enthalten ist, die den vom Anrufer übermittelten Versendezeitpunkt speichert und die Anwählfunktion zu dem angegebenen Zeitpunkt aktiviert.

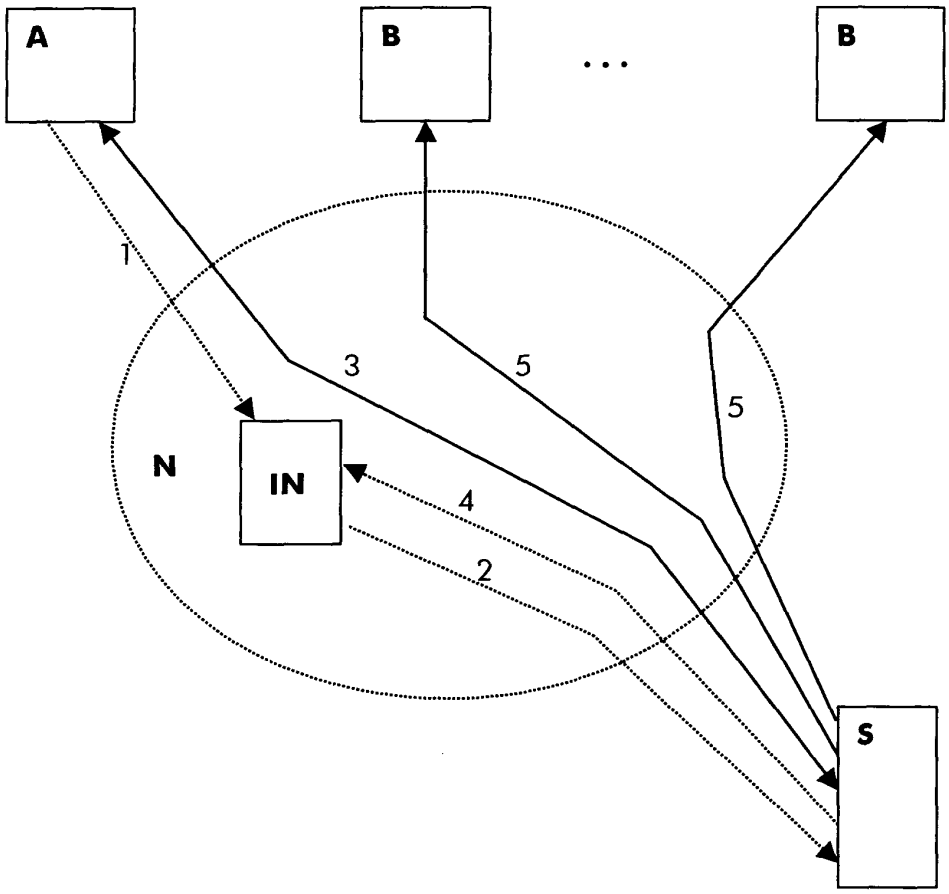
13. Diensterechner nach Anspruch 11 **dadurch gekennzeichnet, dass** eine Funktion die Anwählfunktion innerhalb des Zeitfensters wiederholt aktiviert, bis die Nachricht an den Adressaten B übermittelt ist.

14. Diensterechner nach Anspruch 11 **dadurch gekennzeichnet, dass** eine Funktion enthalten ist, die durch gesonderten Anruf eines Teilnehmers übermittelte Zuordnungen von Bezeichnungen (Namen oder Kennungen) mit einer oder mehreren Teilnehmernummern speichert und diese Information an die Anwählfunktion übergibt.

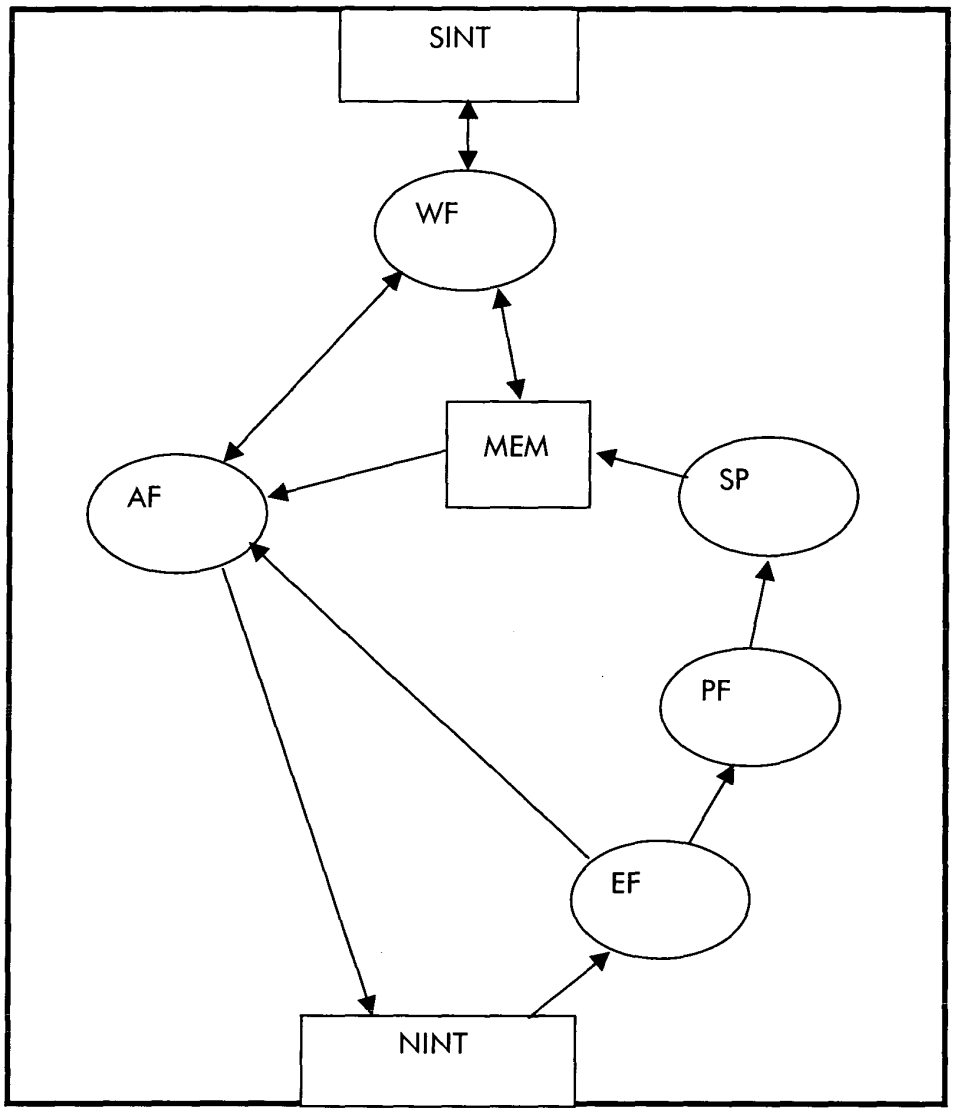
15. Diensterechner nach Anspruch 11 **dadurch gekennzeichnet, dass** eine Funktion enthalten ist, die die übermittelte Information auf Plausibilität und Eindeutigkeit (PF) überprüft, und den Anrufer

gegebenenfalls über die Sprachausgabefunktion (AS) zur erneuten Informationseingabe auffordert.

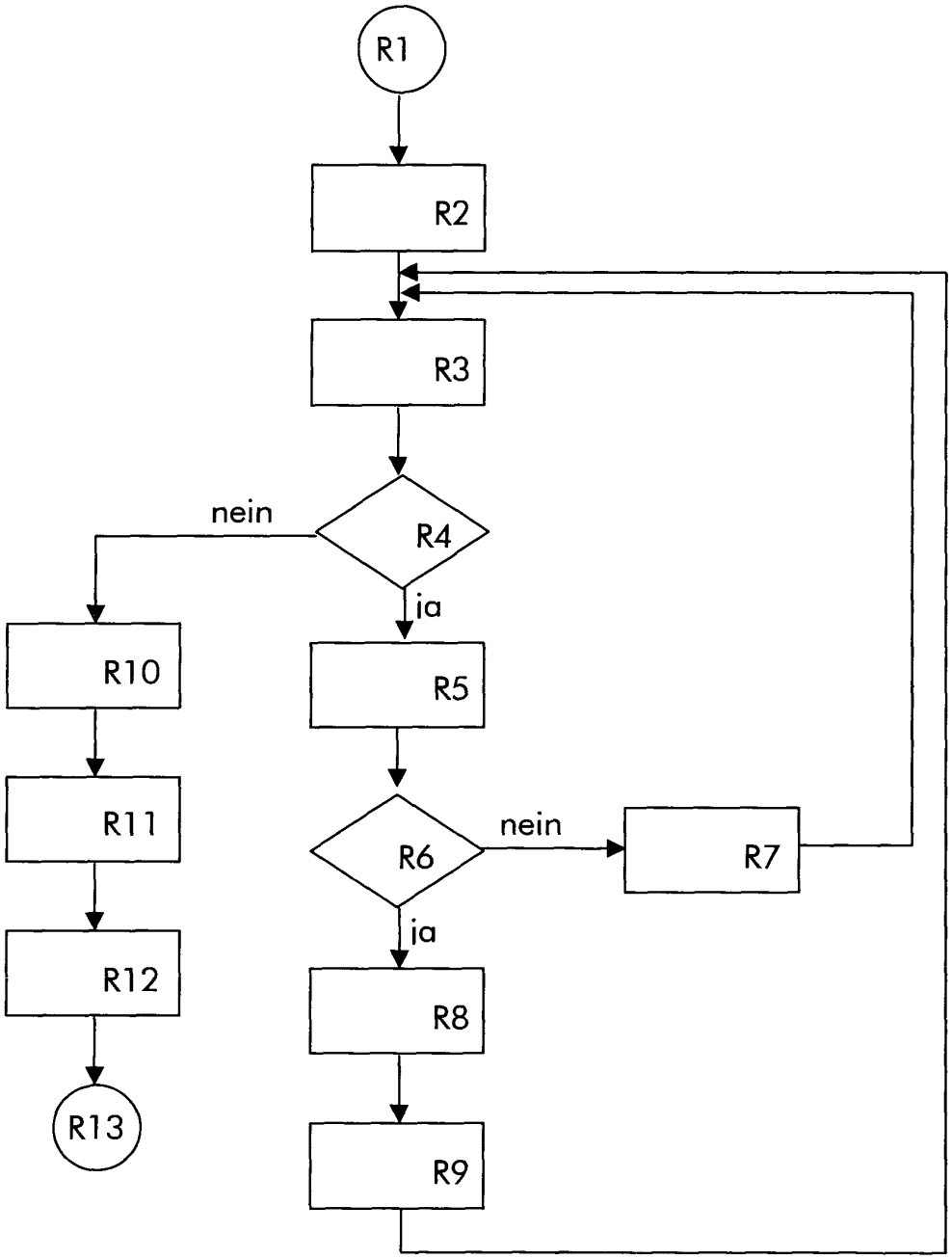
16. Diensterechner nach Anspruch 11 **dadurch gekennzeichnet, dass** eine Internetanbindung vorhanden ist und die Informationsübermittlung zwischen dem Anrufer A und Diensterechner S über das Internet erfolgt.



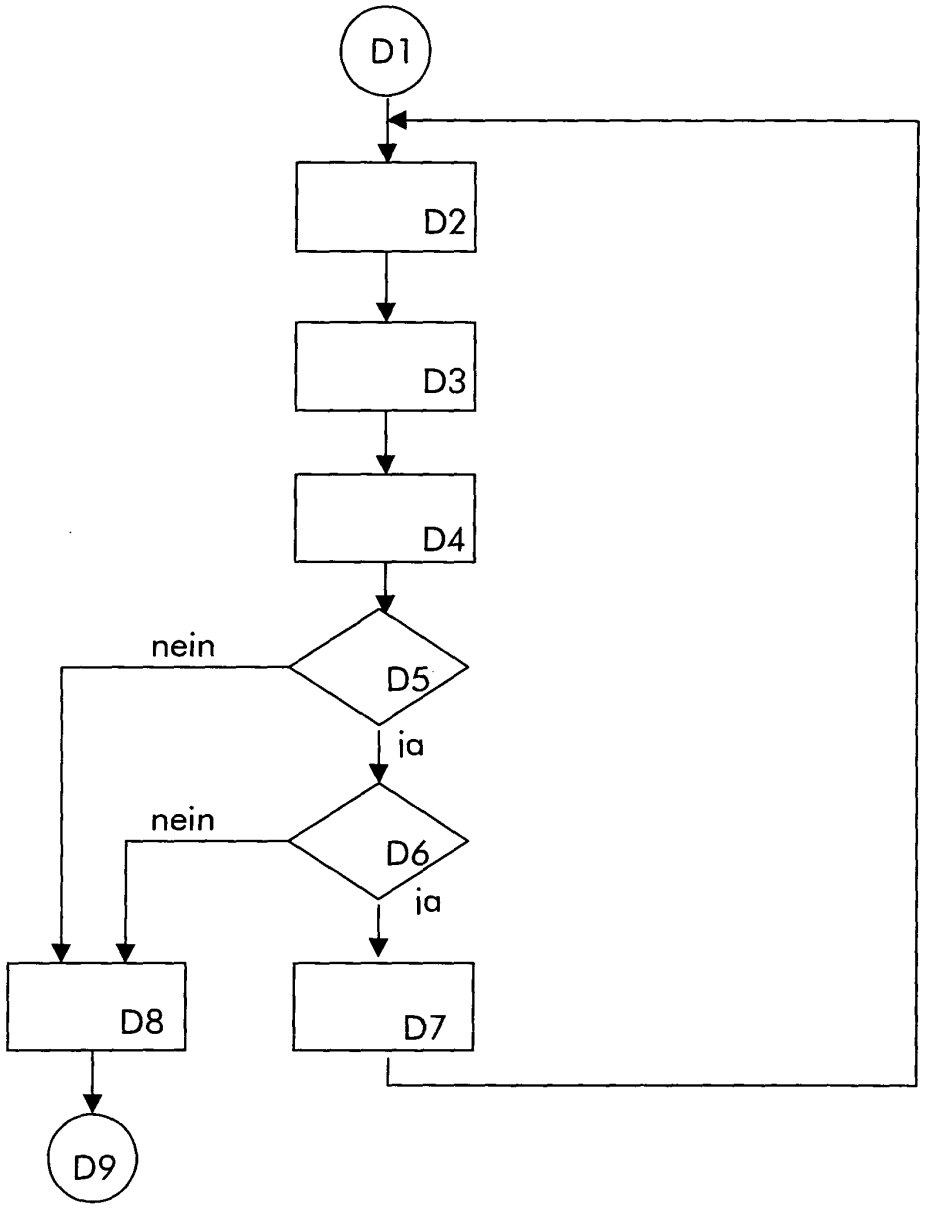
Figur 1



Figur 2



Figur 3



Figur 4

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Skillicorn et al.	:	
Application No. 10/198,633	:	ON PETITION
Filed: July 18, 2002	:	
Attorney Docket No. 26046/04038	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

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 $1020.00 extension of time fee submitted with the petition on January 8, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

FAY, SHARPE, FAGAN, MINNICH & MCKEE
1100 SUPERIOR AVENUE, 7TH FLOOR
CLEVELAND, OH 44114-5582

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 5

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND OR 97205

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of Kastner and Candalino Application No. 10/198,646 Filed: July 27, 2002 Attorney Docket No 4164-203	: : : : :	DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 22, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 14, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. Additionally the Notice indicated that the basic filing fee and a fee for additional claims were missing. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

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

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

Acknowledgement of is made the payment of the requisite fees by credit card via PTO form 2038 filed with the instant petition.

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

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LETTER

Ted G. Candalino
5963 Red Rock Circle
Las Vegas, Nevada 89103

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of
Kastner and Candalino
Application No. 10/198,646
Filed: July 27, 2002
Attorney Docket No 4164-203

Dear Mr.Ted G. Candalino:

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

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

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

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

cc: MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND OR 97205

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BROOKS KUSHMAN P.C.
LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Douglas C. Campbell et al :
Application No. 10/198,647 : DECISION GRANTING STATUS
Filed: July 17, 2002 : UNDER 37 CFR 1.47(A)
For: AUTO HEADLAMP MODULE WITH :
INTEGRATED PHOTOCELL :

This is in response to the petition under 37 CFR 1.47(a), filed November 6, 2002 and supplemented on March 12, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application file is being referred to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed February 26, 2004.

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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ROBERT MULLER
625 ALTADENA
ROYAL OAK, MI 48067

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APR 0 2 2004
OFFICE OF PETITIONS

In re Application of
Campbell; Grabowski; Zeidan; and Muller
Application No. 10/198,647
Filed: July 17, 2002
For: AUTO HEADLAMP MODULE WITH INTEGRATED PHOTOCELL

Dear Mr. Muller:

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:
BROOKS KUSHMAN P.C./LEAR CORPORATION
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

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www.uspto.gov

Thomas A O'Rourke
Bodner & O' Rourke
425 Broadhollow Road
Melville NY 11747

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of

John Kurth

Application No. 10/198,663

Filed: July 15, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 19, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on July 12, 2007, after it was believed that no response was received to the non-final Office action mailed April 11, 2007. 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 November 13, 2007, 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 May 24, 2007, 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.

The application file is being forwarded Technology Center 2800, GAU 2875, for further processing, including processing of the amendment first filed May 24, 2007, and a copy of which was filed on November 19, 2007.

Further inquires 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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RINES & RINES
81 NORTH STATE STREET
CONCORD, NH 03301

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JUN 2 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Daniel B. Kotlow et al	:	
Application No. 10/198,665	:	ON PETITION
Filed: July 16, 2002	:	
For: METHOD OF AND APPARATUS FOR	:	
ACCURATE RESISTANCE MEASUREMENT	:	
WITH A PROGRAMMABLE CURRENT	:	
SOURCE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed March 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 4, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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) 306-5685.

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

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United States Patent and Trademark Office
P.O. Box 1450
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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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AUG 01 2008

OFFICE OF PETITIONS

In re Application of	:	
Bret S. Weber	:	
Application No. 10/198,684	:	ON PETITION
Filed: July 18, 2002	:	
Attorney Docket No. 01-878	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 9, 2007, to revive the above-identified application. The delay in responding is regretted.

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

As authorized, the Request for Continued Examination (RCE) fee of $790 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE under 37 CFR 1.114 with the $790 fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

This application file is being referred to Technology Center Art Unit 2181, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

MAIL

DEC 05 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of :
John S. Montrym et al :
Application No. 10/198,707 :
Filed: July 17, 2002 :
For: **INTEGRATED GRAPHICS PROCESSING UNIT WITH ANTIALIASING** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Kevin J. Zilka and Dominic M. Kotab are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: nVIDIA Corporation
2701 San Tomas Expressway
Santa Clara, CA 95050

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

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

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of	:
Sima Noghanian et al	:
Application No. 10/198,728	: DECISION REFUSING STATUS
Filed: July 16, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 019417-004110US	:

This is in response to the petition under 37 CFR 1.47(a), filed February 26, 2003 and supplemented on March 13, 2003, which included an executed declaration by Patrick Mullen, one of the previous nonsigning inventors.

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), the declaration executed by inventor Sima Noghanian is defective since it does not include a listing of all the named inventors as required by 37 CFR 1.63(a)(2). Note MPEP 602, which states:

> Where joint inventors execute separate oaths or declarations each oath or declaration should make reference to the fact that the affiant is a joint inventor together with the other joint inventors indicating them by name.

In this regard, the declaration received on February 26, 2003 executed by inventor Noghanian fails to include the additional page which names Bob Beck as the fifth named inventor. Accordingly, a newly executed oath/declaration which lists all the named inventors in accordance with 37 CFR 1.63(a)(2) is REQUIRED.

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: U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

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 South Clark Place
Arlington, VA 22202

Effective May 1, 2003, the new address for correspondence will be:

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of	:
Sima Noghanian et al	:
Application No. 10/198,728	: DECISION GRANTING
Filed: July 16, 2002	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 019417-00411OUS	:

This is in response to the petition under 37 CFR 1.47(a), filed April 10, 2003.

The petition is granted.

Petitioner has shown that the nonsigning inventor (Bob Beck) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2131 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
WASHINGTON, D.C. 20231
www.uspto.gov

Bob Beck
8101 - 160 Street
Edmonton, Alberta, Canada T5R 2G9

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Sima Noghanian; Patrick Mullen; Himanshu Dwivedi; Geoff Hayward; and Bob Beck
Application No. 10/198,728
Filed: July 16, 2002
For: NETWORK SECURITY DEVICES AND METHODS

Dear Mr. Beck:

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:

Townsend and Townsend and Crew LLP
Two Emcarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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HOWREY SIMON ARNOLD & WHITE, LLP
C/O M.P. DROSOS, DIRECTOR OF IP ADMINISTRATION
2941 FAIRVIEW PK
BOX 7
FALLS CHURCH VA 22042

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Rong-Chang Liang, et al.	:	DECISION ON PETITION
Application No. 10/198,729	:	UNDER 37 CFR 1.78(a)(3)
Filed: July 16, 2002	:	
Atty Docket No. 26822-0018	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on April 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on July 16, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

instant application is entitled to the benefit of the earlier filing date.

Status as a small entity has been accorded in view of the assertion of small entity status filed April 12, 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.

This application is being forwarded to Technology Center Art Unit 2873 for consideration by the Examiner of the amendment filed April 15, 2004, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at 703-305-9220.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

cc: HOWREY SIMON ARNOLD & WHITE, LLP
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

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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KOPPEL, JACOBS, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark Lange	:	
Application No. 10/198,773	:	ON PETITION
Filed: July 18, 2002	:	
Attorney Docket No. 147-25-025	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 1, 2004, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before June 16, 2004. Accordingly, this application became abandoned on June 17, 2004. A Notice of Abandonment was mailed on July 26, 2004.

Petitioner contends the Notice of Allowance was never received by applicant. Furthermore, petitioner states the correspondence address of record and power of attorney was erroneously changed in the above-identified application by the USPTO and the Notice of Allowance was, therefore, mailed in error to the wrong address. A review of the application file supports petitioner's argument. The Patent and Trademark Office sincerely apologizes for any inconvenience the error may have caused.

Accordingly, the petition is granted and the holding of abandonment is hereby withdrawn.

The $110.00 petition fee will be refunded to deposit account no. 11-1580.

This application is being forwarded to Technology Center 2800 for re-mailing of the Notice of Allowance.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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DIW Oct-06

PAUL J. ESATTO, JR.
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Kaji et al.	:	
Application No. 10/198,779	:	ON PETITION
Filed: 19 July, 2002	:	
Atty. Docket No. 15640	:	

This is a decision on the paper filed on 7 August, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

This application became abandoned on 26 June, 2005, for failure to file a timely reply to the Office action requiring restriction and/or election mailed on 25 May, 2005, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 24 February, 2004.

Petitioners aver that a review of the PAIR system shows that the Notice mailed on 26 June, 2005, was returned to the Office as undeliverable. Petitioners further aver that the Examiner stated during an interview on 28 February, 2006, that he would rescind the Notice of Abandonment.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 26 June, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been

received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Although a review of Office records reveals that the Office communication mailed on 25 May, 2005, was returned by the USPS, it is not clear that the envelope was returned due to Office error, as petitioners argue. As such, a grantable petition to withdraw the holding of abandonment requires the showing required in MPEP 711.03(c)(A), which states, in pertinent part:

> 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.

(emphasis added)

Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for one (1) month from the mail date of the Office action mailed on 25 May, 2005, as documentary proof of non-receipt of the Office action.

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Additionally, petitioners must provide a statement 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.

Additionally, with regard to petitioner's assertion that the examiner stated that the holding of abandonment would be withdrawn, there is nothing in the written record to corroborate that assertion. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). 37 CFR 1.2 states that 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.

As such the application is properly held abandoned.

The petition is **DISMISSED.** However such dismissal is without prejudice to reconsideration pending submission of the showing outlined above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(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 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 related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PAUL J. ESATTO, JR.
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Kaji et al.	:	
Application No. 10/198,779	:	ON PETITION
Filed: 19 July, 2002	:	
Atty. Docket No. 15640	:	

This is a decision on the paper filed on 4 December, 2006, which is treated as a renewed petition to withdraw the holding of abandonment in the above-identified application.

This application became abandoned on 26 June, 2005, for failure to file a timely reply to the Office action requiring restriction and/or election mailed on 25 May, 2005, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 24 February, 2004. The petition filed on 7 August, 2006, was dismissed on 4 October, 2006.

Petitioners again aver that a review of the PAIR system shows that the Notice mailed on 26 June, 2005, was returned to the Office as undeliverable. Petitioners further aver that the Examiner stated during an interview on 28 February, 2006, that he would rescind the Notice of Abandonment.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 26 June, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-

received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

In support, the petition includes a statement from the practitioner, Thomas Spinelli, stating that the Office communication was not received by the practicioner, and attesting to the fact that a search of counsel's docket indicates that the Office action was not received. A copy of counsel's docket report where the non-received Office action would have been entered had it been received and docketed is 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.**

It is noted that applicant has filed an election in response to the restriction requirement mailed on 25 May, 2005, with the petition filed on 7 August, 2006. As such the Office action will not be remailed.

The application file is being referred to Technology Center Art Unit 3731 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

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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Paper No. 13

HENRY D. COLEMAN
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

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APR 1 5 2004

OFFICE OF PETITIONS

In re Application of
Bowen et al.
Application No. 10/198,786
Filed: July 18, 2002
Attorney Docket No. G25-070

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 9, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed September 16, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 17, 2003. A Notice of Abandonment was mailed on March 25, 2004.

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

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

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

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

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Quarles & Brady, LLP
411 East Wisconsin Avenue
Suite 2040
Milwaukee, WI 53202

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:
Terrence M. Rotter, et. al.	: DECISION ON PETITION
Application No. 10/198,789	: UNDER 37 CFR 1.78(a)(3)
Filed: July 18, 2002	:
Attorney Docket No. 550270.91103	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

A reference to add the prior-filed application 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 application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273

(C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed November 15, 2004 fails to state the relationship of Application No. 10/035,101, filed December 28, 2001, to the instant application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement and stating the relationship of the prior-filed application to the instant application is

---

[1] *Note* 37 CFR 1.121

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
2011 South Clark Place
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 Andrea Smith at (571) 272-3226.

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

Frances Hicks
Lead Petitions Examiner

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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CSABA TRUCKAI
C/O SURGRX, INC.
2629 B TERMINAL BLVD
MOUNTAIN VIEW, CA 94043

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AUG 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Csaba Truckai et al	:	
Application No. 10/198,854	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. SRX-020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed March 22, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 23, 2004.

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

The matter is being referred to Technology Center AU 3739 for further processing.

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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Philip M. Weiss, Esq.
Weiss & Weiss
Suite 251
310 Old Country Road
Mineola, NY 11501

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Steve Weinstock	:	
Application No. 10/198,882	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. P/89-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2004, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

A final Office action was mailed to applicant on January 30, 2004, which set a three-month shortened statutory period for reply. However, the Office action was returned to the USPTO as undeliverable on February 18, 2004. On February 27, 2004, applicant submitted a change of address. As no reply was received, the application technically became abandoned on May 1, 2004.

Petitioner argues that a change of address was filed shortly after the Office action was mailed and that the application should be revived without a petition fee.

MPEP 707.13 states in pertinent part:

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was address to an attorney, a letter may be written to the inventor or assignee informing him or he of the returned action. The period running against the application begins with the date of remailing. Ex parte Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

It appears from the record that the examiner did not follow the instructions provided in MPEP 707.13, noted above. In view thereof, the petition under 37 CFR 1.137(b) is unnecessary and the abandonment of the application is hereby withdrawn.

Since the petition fee of $685 is not required, applicant may request a refund of the fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The Office sincerely apologizes for the delay in rendering a decision on the petition. Unfortunately, the petition did not reach the appropriate deciding official timely. Any inconvenience to petitioner is regretted.

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

The application file is being referred to Technology Center 3700 for remailing of the Office action and restarting the period for reply.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 08, 2007

TO SPE OF : ART UNIT 2611 10/198899

SUBJECT : Request for Certificate of Correction on Patent No.: 7127017 B1

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

David Pryor
SPE

2611
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 08, 2007

TO SPE OF : ART UNIT 2611 10/198899

SUBJECT : Request for Certificate of Correction on Patent No.: 7127017 B1

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

David Pryor
SPE

2611
Art Unit

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KIM CAMERON
1635 W. COVINA BLVD. # 110
SAN DIMAS, CA 91773

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JAN 07 2009

OFFICE OF PETITIONS

In re Patent of Cameron :
Patent No. 6,752,369 :
Issue Date: June 22, 2004 :
Application No. 10/198,909 :
Filing Date: July 19, 2002 :
For: Camera Steadying Device :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.378(b), filed December 2, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued June 22, 2004.

The 3.5 year maintenance fee was due from June 22, 2007, through Monday, December 24, 2007, or with a surcharge during the period from December 25, 2007, to Monday, June 23, 2008. The fee was not timely paid and the patent expired June 24, 2008.

The instant petition requests reinstatement of the patent.

A review of the record indicates reinstatement of the patent is appropriate.

The Office mailed a maintenance fee reminder to petitioner on December 31, 2007. During a telephonic conversation on December 22, 2008, petitioner confirmed she received and read the maintenance fee reminder.

Petitioner was not required to pay the maintenance fee immediately upon receipt of the reminder. Instead, petitioner had the right to pay the fee, with a surcharge, as late as June, 23, 2008.

On April 11, 2008, petitioner was diagnosed with breast cancer. Petitioner's employer would not allow petitioner to use sick leave and petitioner was forced to go on disability. Petitioner's income dropped to, and continues to be, approximately $820 ($724 disability + $96 food stamps).

Petitioner has asserted financial difficulty as the cause of delay. A showing of "unavoidable" delay based upon financial difficulty must establish that petitioner lacked the financial resources

to timely pay the fee at issue or to file a petition to reinstate on an earlier date. Petitioner has provided such a showing.

Petitioner has met the requirements to reinstate the above-identified patent pursuant to 37 C.F.R. § 1.378(b).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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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P.O. Box 1450
Alexandria, VA 22313-1450
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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Michael Timothy Nelson	:	
Application No. 10/198,915	:	
Filed: July 19, 2002	:	
Attorney Docket No. 1114780-0004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2005, requesting revival of the above-identified application.

The petition under is granted.

The above-identified application became abandoned for failure to timely and properly reply to the Office action mailed on April 8, 2004. The Office action set a three (3) month shortened statutory period for reply. No response having been received, the application became abandoned on July 9, 2004. A Notice of Abandonment was mailed on November 8, 2004.

In the present petition, petitioner requested a three-month extension of time to reply. However, the request for the extension of time was submitted after the maximum period allowable by statute to respond. Accordingly, the Office will not charge any extensions of time fees. The $750.00 petition fee will be charged to Deposit Account No. 23-1703.

This matter is being referred to Technology Center Art Unit 2857.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of
Robert Pawliuk
Application No. 10/198,917
Filed: July 19, 2002
Attorney Docket No. IOI-019CP

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

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate PCT Application, Application No. PCT/US02/01666, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/264,457, which was filed on January 26, 2001.
37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement contained in the instant petition

varies from the language required by 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the statement contained in the instant petition is being construed as the statement required by 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1632 for appropriate action on the amendment submitted February 28, 2005, including consideration by the examiner of the claims under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2), 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed applications.

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

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Serres, Pierre F.
Application No. 10/198,938
Filed: July 22, 2002
Attorney Docket No. 106213.01

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(C)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed September 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

The instant pending application was filed on July 22, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim 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 July 22, 2002, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of November 17, 1997, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on July 22, 2002 identifies the foreign application for which priority is claimed.

Further, the petition indicates that a certified copy of the priority document was filed on August 21, 2000 in prior filed Application No. 09/570,921. Pursuant to petitioner's authorization, the $1330.00 surcharge was charged to petitioner's deposit account. Lastly, petitioner has provided an adequate statement of unintentional delay.

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.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) 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, 365(c) and 119(a)-(d) 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.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1648 for 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 and PCT applications and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment and declaration, respectively.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22320

In re Application of

Pierre-Francois Serres
Application No. 10/198,938
Filed: January 22, 2002
Attorney Docket No. 106213.01

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 July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (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, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The address of record remains unchanged.

The attorneys/attorneys associated with the firm Oliff & Berridge remain of record.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **AUGUST 15, 2007**

TO SPE OF : ART UNIT **2813**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/198,941** Patent No.: **6858507**

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: _____

_____

Carl Whitehead, Jr AU 2813
SPE **Art Unit**

#5

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TECHNOLOGY CENTER 2100

Paper No. 5

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:	)	
Forbes	)	
Application No. 10/199,005	)	**DECISION ON REQUEST FOR**
Filed: July 22, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SCALABLE MODULAR SERVER SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed September 25, 2003.

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

The request filed September 25, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

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Paper No. 4

MAILED

OCT 1 4 2003

Technology Center 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of
Bryn B. FORBES
Application No. 10/199,006
Filed: July 22, 2002
For: DYNAMIC DEPLOYMENT MECHANISM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 25, 2003.

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

All future communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

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PFLEGER, PLLC
C/O PORTFOLIO IP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
Bryn B. Forbes
Application No. 10/199,006
Filed: July 22, 2002
Attorney Docket No: **219.40062X00**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed January 26, 2007 under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned September 18, 2006, for failure to timely respond to the Final Office Action mailed June 15, 2006.

Petitioner argues that the Final Office Action was not received and includes copies of the file jacket and docket to establish non-receipt. Petitioner further offers as proof of non-receipt, the argument that the Final Office Action mailed June 15, 2006 was returned to the USPTO by the United States Postal Service and thus could not have been received.

In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement that the Office communication was not received and attesting to the fact that a search of the docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been

entered had it been received and docketed must be attached to and referenced in petitioner's statement.[1] The evidence identified above is required to show that the petitioner arguing non-receipt is without fault in not receiving the communication.

A review of the file reveals that the Final Office Action was mailed to the address of record on June 15, 2006, but was returned by the US Postal Service on June 21, 2006. However, since the address of record differs from that of the address found on the petition and since there does not appear to have been a change of address filed prior to the mailing of the Final Office Action, it stands to reason that the office action was not received by the recipient. In this instance even with copies of the docket records having been provided, some question exists as to whether the non-receipt could be attributed to a change in address. The USPTO mailed the office action to "P.O. BOX 52050 MINNEAPOLIS, MN 55402" what was listed as the address of record, but the address as provided on the petition is "55 SOUTH COMMERCIAL STREET, MANCHESTER, NH 03101". Petitioner should provide evidence to show what the address of record was at the time the office action was mailed, what address the docket records provided represents and that the USPTO mailed the office action to the wrong address, to refute any appearance that petitioner was with fault in not receiving the communication.

If the Manchester, NH address was the address on June 15, 2006, it would therefore stand to reason that since petitioners were no longer using the Minneapolis, MN for mail, that they would not have received the office action and the docket records would be correct, but with that, it was not the fault or an error on the part of the agency and thus, the holding of abandonment cannot be withdrawn.

As petitioner has not presented any evidence that the address of record had been changed with the USPTO at the time the Final Office Action was mailed, and in the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with up to date addresses, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

Petitioner is advised that the mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). Since the file does not indicate a change of address has been submitted, a change or correction of address should be filed in accordance with MPEP 601.03. As a courtesy, 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. A proper change of address must be submitted and it cannot be included with any response or other communication with the USPTO.

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

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[2]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)).

[3]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)).

Alexandria, VA 22313-1450

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
GROSSMAN, TUCKER, PERREAULT &
PFLEGER, PLLC
55 COMMERCIAL STREET
MANCHESTER, NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Bryn B. Forbes	:	DECISION ON PETITION
Application No. 10/199,006	:	
Filed: July 22, 2002	:	
Attorney Docket No: **219.40062X00**	:	

This is a decision on the renewed petition filed April 3, 2007, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned September 18, 2006, for failure to timely respond to the Final Office Action mailed June 15, 2006. Prior to a mailing of the Notice of Abandonment, a petition was filed January 26, 2007 claiming that the Final Office Action mailed June 15, 2006 was not received. Petitioner argued that the Final Office Action was not received and included copies of the file jacket and docket to establish non-receipt. Petitioner further offered as proof of non-receipt, the argument that the Final Office Action mailed June 15, 2006 was returned to the USPTO by the United States Postal Service and thus could not have been received.

The petition was dismissed in a decision mailed February 22, 2007 because while a docket was provided as proof of non-receipt, a review of the file revealed that the address of record differed from that of the address found on the petition. Some question existed therefore as to whether the non-receipt could be attributed to a change in address and the evidence presented did not therefore show that the docket provided was for the address of record or the address on the petition.

Comes now petitioner claiming that the address of record has not been changed, that the address on the Final Office Action mailed June 15, 2006 was and still is the address of record and finally, that the docket provided with the petition filed January 22, 2007 is the docket record where the non-received Office communication would have been entered had it been received and docketed.

In view thereof, and in that the statement from the petitioner and the exhibit from the docket record and file jacket for the instant matter show no entry indicating receipt of the Final Office Action mailed June 15, 2006, it is apparent that it was not received.

Further, as the office communication was returned to the USPTO by the United States Postal Service on June 21, 2006 and no apparent reason can be determined since it appears that the address of record was placed on the correspondence, it is concluded that the Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

A response to the Final Office Action mailed June 15, 2006 was filed with the petition filed January 26, 2007. This matter is being referred to Technology Center 2157 for treatment of the response as appropriate.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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GROSSMAN, TUCKER,
PERREAULT & PFLEGER, PLLC
C/O INTELLEVATE, LLC
P. O. BOX 52050
MINNEAPOLIS MN 55402

COPY MAILED

JUL 21 2008

In re Application of	:	
Forbes	:	
Application No. 10/199,006	:	DECISION
Filed: 22 July, 2002	:	
Attorney Docket No. 219.40062X00	:	

This is a decision on the petition filed on 30 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

NOTE: It appears that the address of record (i.e., correspondence address) is different from that on the instant petition. (It appears that the assignee, who/which receives Office actions, and Petitioner herein, who thereafter replies on behalf of the assignee, have two different geographic locations at which the receipt and docketing of matters herein must be accomplished.)

This issue is raised to Petitioner's attention because the record now reflects that since the final Office action mailed on Thursday, 15 June, 2006, there is a history of non-receipt of and/or failure to reply timely/properly to Office actions, of which history the Office may take into future consideration. (*See*: MPEP §711.03(c): "*** The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office 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). *** ")

There is no indication that Petitioner herein ever filed a Notice of Change of Address directing correspondence to the latter address. In fact, Petitioner has asserted in the past that the address of record is the proper correspondence address. If Petitioner desires to receive future correspondence regarding this application at the latter address, the appropriate Notice documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are due here.)

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. (*See*: MPEP 711.03(c)(II)(C) and (D).)

It appears that Petitioner has satisfied the requirements of the regulation.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 15 June, 2006, with reply due absent an extension of time on or before 15 September, 2006.

The instant application went abandoned by operation of law after midnight 15 September, 2006.

On 26 January, 2007, Petitioner sought under the provisions of 37 C.F.R. §1.181 to have the Office withdraw the holding of abandonment—and Petitioner pointed to a 30 October, 2006, amendment after-final (the timeliness of which is not under consideration here though the amendment was filed without a request/fee for extension of time), which amendment Petitioner, as one registered to practice before the Office, was aware was not a proper reply.[1] The petition was dismissed on 22 February, 2007, for Petitioner's failure to make a sufficient showing.

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

On 2 March, 2007, the Office mailed the Notice of Abandonment.

On 3 April, 2007, Petitioner sought reconsideration of the petition and supplemented his prior filing, and the petition was granted on 14 June, 2007.

On 13 July, 2007, the Examiner mailed an Advisory Action as to the 30 October, 2006, after-final amendment, which was not entered, and due to Petitioner's failure to have replied timely and properly to the 15 June, 2006, final Office action, the instant application once again went abandoned.

On 30 October, 2007, Petitioner filed the instant petition and fee with, *inter alia*, a reply in the form of request for continued examination (RCE) with fee and an amendment as the submission under 37 C.F.R. §1.114, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[3] 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] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

CONCLUSION

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

The instant application is released to Technology Center/AU 2157 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Technology Center/AU 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[5]) 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:
EDMUND P. PFLEGER
55 COMMERCIAL STREET
MANCHESTER NH 03101

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2006

TO SPE OF : ART UNIT 2654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/199008 Patent No.: 7,020,604

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: A preliminary amendment canceled claims 1-27. Therefore, it is proper to cancel these claims to correct the record.

David D. Knepper — SPE

2626 — Art Unit

DAVID D. KNEPPER
PRIMARY EXAMINER

OIPE IAP13 APR 07 2006 PATENT & TRADEMARK OFFICE

10/199008

CofC

CERTIFICATE OF CORRECTION BRANCH
Attorney Docket: 24137A
Date: April 7, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

approved

Certificate
APR 11 2006
of Correction

In re Patent of:

KUWAOKA

Patent No.: 7,020,604

Issued: March 28, 2006

For: **AUDIO INFORMATION PROCESSING METHOD, AUDIO INFORMATION PROCESSING APPARATUS, AND METHOD OF RECORDING AUDIO INFORMATION ON RECORDING MEDIUM**

TRANSMITTAL LETTER

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

Sir:

Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

1) Request for Certificate of Correction;
2) 2 (two) copies of PTO Form-1050.

Please charge any required fee, or credit any overpayment, in connection with this matter to Deposit Account No. 14-0112.

Respectfully submitted,
NATH & ASSOCIATES PLLC

Gary M. Nath, Reg. No. 26,965
Jerald L. Meyer, Reg. No. 41,194
Customer No. 20529

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

GMN/JLM/le

APR 12 2006

OIPE IAP13
APR 07 2006
PATENT & TRADEMARK OFFICE

CERTIFICATE OF CORRECTION BRANCH
Attorney Docket: 24137A
Date: April 7, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:

KUWAOKA

Patent No.: 7,020,604

Issued: March 28, 2006

For: **AUDIO INFORMATION PROCESSING METHOD, AUDIO INFORMATION PROCESSING APPARATUS, AND METHOD OF RECORDING AUDIO INFORMATION ON RECORDING MEDIUM**

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R § 1.322

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

Sir:

Please correct the captioned patent by entering the changes shown on the attached Form PTO 1050. It is respectfully submitted that none of the errors occurred through the fault of the applicant. The Commissioner is hereby petitioned under 37 C.F.R. § 1.322 to correct such mistakes. A duplicate copy of Form PTO 1050 is submitted herewith.

Any questions regarding this matter should be directed to the below signing attorney.

Respectfully submitted,
NATH & ASSOCIATES PLLC

Gary M. Nath, Reg. No. 26,965
Jerald L. Meyer, Reg. No. 41,194
Customer No. 20529

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

GMN/JLM/le

APR 12 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NUMBER : 7,020,604

ISSUED : March 28, 2006

INVENTOR : KUWAOKA

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

Claims 1-27, Columns 36-41,
Please cancel claims 1-27

MAILING ADDRESS OF SENDER:

PATENT NO. 7,020,604

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

APR 12 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NUMBER : 7,020,604

ISSUED : March 28, 2006

INVENTOR : KUWAOKA

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

Claims 1-27, Columns 36-41,
Please cancel claims 1-27

MAILING ADDRESS OF SENDER:

PATENT NO. 7,020,604

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

APR 12 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DRW Jul-05

VARNDELL & VARNDELL, PLLC
106-A S. COLUMBUS ST.
ALEXANDRIA VA 22314

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Kazutoshi Hori	:	
Application No. 10/199,022	:	DECISION ON PETITION
Filed: 22 July, 2002	:	
Atty Docket No. VX022455	:	

This is a decision on the petition filed on 19 April, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 April, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Issue Fee Due mailed on 14 January, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

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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)).

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE: A. Grunberg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/19/07

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: PP14434

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 — **Art Unit** 1661

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

Date: 02/26/10

Patent No.: PP14434 P3
Application No: 10/199,059
Issued : November 6, 2007
Inventor : WEEKS, O. L.
Title : **GRANDIFLORA ROSE PLANT NAMED 'WEZLAVN'**

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 provision of Rule 1.322 or 1.323.

Respecting the alleged error, comparison of the patent on the Title Page, item (*) Notice; with the corresponding location in the application file reveals that there is no discrepancy. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 and the Code of Federal Regulation (C.F.R.) R 1.322 or R 1.323.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

Benton S. Duffett, Jr.
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

LMN/MD

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS DOANE SWECKER & MATHIS LLP
P O BOX 1404
ALEXANDRIA, VA 22313-1404

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of	:
Marcus T. Cicerone et al	:
Application No. 10/199,061	: DECISION GRANTING PETITION
Filed: July 22, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 004535-002	:

This is a decision on the petition, filed February 14, 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 August 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\199061.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William J. McNulty, Jr.
P. O. Box 672
Provo,
Turks and Caicos Islands

COPY MAILED

DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of
William J. McNulty, Jr.
Application No. 10/199,079
Filed: July 22, 2002
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

In regards to item (1), petitioner tendered a check in the amount of $695 for payment of the issue fee. However, the publication fee of $300 has not been submitted. Petitioner must provide the publication fee to revive this application.

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

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

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

U. S. Patent and Trademark Office
220 20th Street
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

Marianne E. Jenkins

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William J. McNulty, Jr.
P. O. Box 672
Provo,
Turks and Caicos Islands

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
William J. McNulty, Jr.	:	
Application No. 10/199,079	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. N/A	:	

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed November 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The previous decision mailed December 6, 2004, dismissed the instant petition for failure to submit the $300 publication fee. A review of the file record shows that the publication fee was, in fact, submitted to the Office. In view thereof, the previous decision is hereby vacated and any inconvenience to petitioner is regretted.

The application file is being forwarded to the Publishing Division to be processed into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 2 , 2007

TO SPE OF : **Technology Center 1755**

SUBJECT : Request for Certificate of Correction on Patent No.: **10/199079 – 6913645 B2**

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

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

Thank You For Your Assistance

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

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

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

Comments:

Applms contemplated correction would revert claims to form which preceded agreed-to examiner's Amdt.

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE 1755 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 27, 2007

Patent No. : 6,913,645 B2
Ser. No. : 10/199079
Inventor(s) : McNulty, Jr., et al.
Issued : July 5, 2005
Title : **CEMENTITIOUS MATERIAL**
Docket No. :

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.

The request to change the alleged error appears contemplated, correction would revert claims to form, which preceded agreed-to examiner's amendment.

In view of the foregoing applicants request in this matter is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

WILLIAM J. MCNULTY, JR.
P.O. BOX 672
PROVO TC TURKS AND CAICOS ISLANDS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 8/5/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/199079 Patent No.: 6913645 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

☐ **Approved**	**All** changes apply.
x[1] **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The amendment to claim 1, column 3, lines 23 and 26; claim 6, column 3, line 48; claim 7, column 3, line 52; claim 8, [2] column 3, line 57; claim 9, column 3, line 63; and claim 21, column 4, line 42 will not be entered as it is redundant due to the presence in the claim of "one or more". The amendment to claim 16, column 4, line 26 is new matter which is not supported by the specification.

Jessica Ward — **SPE**

1793 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 31, 2009

TO SPE OF : ART UNIT 1793 J.A. Lorengo

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/199,079 Patent No.: 6913645B2

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

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

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

Please see attached substitute PTO 1050 form
On the first request for COC these were specific changes that were denied because the use of the words "one or more", ~~were~~
Now applicant requests reconsideration to the denied corrections. (see attached 1050 form)

Antonio Johnson
Certificates of Correction Branch
~~703-308-9390 ext~~ _____
703-756-1584

Thank You For Your Assistance

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

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

Comments:

The requested corrections are denied entry as the changes would enter redundancies into the claims. Claim 1, for example, states:

". . .one or more rocks or minerals selected from the group consisting of granite, basalt, sandstone and schist . . ." Thus the claim already encompasses combinations of the markush members and adding "or combinations thereof" after "schist" would render tge claim language redundant

/J.A. Lorengo/ — SPE

1793 — Art Unit

SUBSTITUTE 1050

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. : 6,913,645

APPLICATION NO.: 10/199,079

ISSUE DATE : July 5, 2005

INVENTOR(S) : William J. McNulty, Jr.

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:

Claim 1 Column 3 Line 23 and schist should be and schist or combinations thereof
Claim 1 Column 3 Line 26 and schist should be and schist or combinations thereof
Claim 6 Column 3 Line 48 and schist should be and schist or combinations thereof
Claim 7 Column 3 Line 52 and feldspar should be and feldspar or combinations thereof
Claim 8 Column 3 Line 57 and schist should be and schist or combinations thereof
Claim 9 Column 3 Line 63 and schist should be and schist or combinations thereof
Claim 21 Column 4 Line 42 and schist should be and schist or combinations thereof

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

William J McNulty, Jr
PO Box 672
Provo, Turks and Caicos Islands

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

September 29, 2009

Patent No.: 6,913,645 B2
Applicant : William J. McNulty, Jr., et al.
Issued : July 5, 2005
For : **CEMENTITIOUS MATERIAL**

Re: Request for Certificate of Correction

Reconsideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

The requested changes as shown on the substitute 1050 faxed to the office on August 28, 2009 are denied. The requested corrections are denied entry as the changes would enter redundancies into the claims. Claim 1, for example, states:
"…..one or more rocics or minerals selected from the group consisting of qranite, basalt, sandstone and schist . . " Thus the claim already encompasses combinations of the markush members and adding "or combinations thereof" after "schist" would render the claim language redundant.

In the view of the foregoing, the errors submitted on the substitute 1050 form faxed to the office on August 28, 2009 are denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Decisions and Certificates of Correction
Antonio Johnson
571-272-0483

WILLIAM J. MCNULTY, JR.
P.O. BOX 672
PROVO, TURKS AND CAICOS ISLANDS, BWI

[redacted]

From: Brantley, Steven
Sent: Tuesday, October 13, 2009 5:50 PM
To: Johnson, Rochaun
Subject: RE: Approval for a Certificate of Correction 10/199,080 6955631

Yes.

Although one needs petition to add assignee or to change data for assignee, one does not need a petition to delete an assignee erroneously listed on patent.

Steven Brantley
Senior Petitions Attorney
Office of Petitions

From: Johnson, Rochaun
Sent: Tuesday, October 13, 2009 12:02 PM
To: Brantley, Steven
Subject: Approval for a Certificate of Correction 10/199,080 6955631

Please review the certificate of correction dated 10/02/09 COCIN requesting to remove Item (73) Assignee from the issued patent which was recorded on the issue fee on 9/8/05; where the printing contractors records the information. Should this be granted?

http://expoweb1:8001/cgi-bin/expo/GenInfo/pnquery.pl?PAT_ID=6955631

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

Novak Druce Deluca & Quigg, LLP
1300 Eye Street NW
Suite 400 East
Washington, DC 20005

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Carsten Bingel, et al.	:	
Application No. 10/199,081	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. DIV 732/970047	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee and publication fees; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee and publication fee, which were submitted with the petition.

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

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PARKS KNOWLTON - C001
1117 PERIMETER CENTER WEST
SUITE E402
ATLANTA, GA 30338

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Wong	:	
Application No. 10/199,100	:	DECISION ON PETITION
Filed: July 22, 2002	:	TO WITHDRAW
Attorney Docket No. CING-0042/638.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 22, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Parks Knowlton has been revoked by the assignee of the patent application on March 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: WOODCOCK & WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA, PA 19103

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

APR 15 2005

TECHNOLOGY CENTER 3600

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

IN RE: Masaji Mori, et al.
SERIAL NO. 10/199,104 :PETITION UNDER 37 CFR 1.181
FILED: July 22, 2002 :
DOCKET # 225841US3X

FOR: FOREIGN MATTER FILTER FOR FUEL
ASSEMBLY IN PRESSURIZED WATER REACTOR

This is in response to the petition filed on February 4, 2005 for consideration of an Information Disclosure Statement (IDS).

The petition is GRANTED

FACTS

On November 18, 2004 a Notice of Allowance was mailed. In December 22, 2004 the applicant submitted an IDS. The IDS included the appropriate fee and certification required by 37 CFR 1.97.

Petitioner requests that the IDS filed December 22, 2004 be considered by the examiner.

A review of the file indicates that the examiner acknowledged the IDS in a Supplemental Notice of Allowability mailed on March 7, 2005.

In that the IDS was acknowledged by the examiner, the petition is GRANTED.

The application has been forwarded to the Office of Publications for further processing.

Donald Hajec
Director, TC 3600
(703) 306-4180
/mjc:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070904-A

DATE : September 4, 2007

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,801,726

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Mr. David Gray **Art Unit** 2852

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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APR 16 2008

In re Application of :
KANSA, et al. :
Application No. 10/199,117 : DECISION ON PETITION
Filed: July 22, 2002 :
Attorney Docket No. **Q71185** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Restriction, mailed September 7, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 8, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 3, a statement that the entire delay was unintentional.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition does not track the language required by 37 CFR 1.137(b)(3), the statement cannot be accepted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a)

are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER, BC V6B 1G1
CANADA

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
J. Ming ZHUANG et al. :
Application No. 10/199,119 : DECISION GRANTING PETITION
Filed: July 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. N154 0026 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 17, 2004, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on January 18, 2005. Accordingly, by operation of law, the above-identified application became abandoned on January 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 August 17, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1724.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 111203

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

NOV 13 2003

In re Application of	)	
TOLCHINSKY et al.	)	
Application No.10/199,123	)	DECISION ON REQUEST TO
Filed: July 22, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 219.41666X00	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 2, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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.

José 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
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Paper No. 7

IRA M. SIEGEL
LAW OFFICES OF IRA M. SIEGEL
SUITE 970
433 N. CAMDEN DRIVE
BEVERLY HILLS, CA 90210

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OFFICE OF PETITIONS

In re Application of :
Bartov, Asher :
Application No. 10/199,134 : ON PETITION
Filed: July 22, 2002 :
Attorney Docket No. 02092 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed October 18, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 19, 2003. A Notice of Abandonment was mailed on May 1, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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 Department
Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

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OFFICE OF PETITIONS

In re Application of	:
Pfister, et al.	: DECISION ON PETITION
Application No. 10/199,141	:
Filed: July 19, 2002	:
For: OBJECT SPACE EWA SPLATTING	:
OF POINT-BASED 3D MODELS	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed October 7, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed July 26, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant application lacks requirement (1) set forth above. While the petition includes an RCE, the RCE is incomplete as it lacks the required submission. Any renewed petition must be accompanied by a submission to the RCE. *See*, 37 CFR 1.114(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Patent Department
Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

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OFFICE OF PETITIONS

In re Application of	:
Pfister, et al.	: DECISION ON PETITION
Application No. 10/199,141	:
Filed: July 19, 2002	:
For: OBJECT SPACE EWA SPLATTING	:
OF POINT-BASED 3D MODELS	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed October 7, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed July 26, 2006. A petition under 37 CFR 1.137(b) was filed August 14, 2006 and dismissed October 2, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The decision mailed October 2, 2006 advised petitioners that the RCE lacked the required submission. As petitioners indicate that the RCE submission requirement was previously submitted, it is presumed that petitioners intend the amendment submitted after final rejection as the required submission.

This application file is being forwarded to Technology Center 2600 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of	:
Brian P. Callaway et al	:
Application No. 10/199,151	: DECISION GRANTING PETITION
Filed: July 18, 2002	: UNDER 37 CFR 1.313(c)(2)
Atty Docket No. 2269-5214US (01-1016)	:

This is a decision on the petition, filed October 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2824 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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TRASKBRITT, P.C.

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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

In re Application of
Brian P. Callaway et al
Application No. 10/199,151
Filed: July 18, 2002
Atty Docket No. 2269-5214US (01-1016)

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

COPY MAILED

FEB 26 2003

OFFICE OF PETITIONS

In re Application of :
Quick, et al. :
Application No. 10/199,155 :
Filed: July 18, 2002 :
Atty. Dkt. No.: 003801.P020 :
For: DELIVERING MESSAGES TO MESSAGE:
SERVERS :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 22, 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 18, 2002 without an executed oath or declaration and naming Ryan Quick, Chris Quaintance, Inna Vogel, Chad Musick, Michael Wilson, and Thorsten Lockert as joint inventors. Accordingly, on August 20, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a 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 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirements (1) and (2) stated above.

As to item (1), petitioner has failed to establish that the non-signing inventor cannot be reached. Petitioner alleges the application papers were forwarded to the non-signing inventor at the non-signing inventor's last known address and that the envelope containing the application papers was returned by the postal service. Non-delivery was attributed to an expiration of a forwarding address order. Petitioner, however, has provided no documentary evidence of efforts undertaken thereafter to locate the non-signing inventor.

Petitioner is reminded that where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet and telephone directories should be undertaken. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Moreover, while petitioner alleges the non-inventor cannot be located at the non-signing inventor's last known address, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database revealed more current addresses than that identified by petitioner. **CHAD E. MUSICK**, formally of Quail Knoll Court, San Jose, California, more recently could be found at the following: 2103 Xavier Court, Santa Clara, CA 95051, as of October, 2000, and P.O. Box 49015, San Jose, CA 95161-9015, as of January, 2001.

Any renewed petition should be accompanied by evidence that sufficiently establishes diligent effort was undertaken to locate the non-signing inventor.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. The declaration presented with the instant petition is not acceptable as it contains alterations that have not been initialed as required by 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper 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, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

COPY MAILED

APR 2 5 2003

OFFICE OF PETITIONS

In re Application of Quick, et al. Application No. 10/199,155 Filed: July 18, 2002 Atty. Dkt. No.: 003801.P020 For: DELIVERING MESSAGES TO MESSAGE SERVERS	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 23, 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 is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMANN LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles, CA 90025

MAILED

JAN 27 2005

Technology Center 2100

In re Application of:
Ryan Quick
Application No. 10/199,155
Filed: July 18, 2002
For: SYSTEM AND METHOD FOR TRAFFIC MANAGEMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 15, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 15, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF Tower
121 South Eight Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 5

HORST KASPER
13 FOREST DRIVE
WARREN, NJ 07059

COPY MAILED
AUG 3 0 2004
OFFICE OF PETITIONS

In re Application of :
Udo H. Saal et al :
Application No. 10/199,169 : ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. SAT 203 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 20, 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.

As to item (1), a reply to the Notice on September 19, 2002, has not been submitted. A proper reply to the Notice must be submitted with the petition to revive for the petition to be 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. 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.

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.[1]

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Zhi Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7657019	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/199,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John E. Wagner, Esq.
LAW OFFICES OF JOHN E. WAGNER
3541 Ocean View Boulevard
Glendale CA 91208

COPY MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Patent No. 6,769,582 :
Issue Date: August 3, 2004 :
Application No. 10/199,191 : ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. 01-0941-602 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 17, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 4, 2008 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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37CFR 1.34(a), the signature of Roy L. Anderson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

The patent file is being forwarded to Files Repository.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OCT -9 2002

Paper No. 5

In re Application of
Kith E. He's *et al*
Application No. 10/119,194
Filed: July 19, 2002
Attorney Docket No. HessNonProv

: DECISION ON PETITION

This is a decision on the petition filed concurrently with the application by which petitioners have requested that they be permitted to use color photographs for certain drawing figures. The $130.00 petition fee has been received.

The petition is denied.

As discussed at MPEP § 608.02, subsection entitled "Color Drawings or Color Photographs", it a petition to permit the use of color drawings or color photographs will be granted only when it is determined that color drawings or color photographs are "the only practical medium by which to disclose in a printed utility patent the subject matter to be patented." While a review of the petition shows that petitioners have described their invention as including embodiments that are provided with indicia or configurations that include details of imagery and color, petitioners have not demonstrated that in order to disclose in a printed utility patent the subject matter sought to be patented, that it is necessary to include color drawings in order to disclose the claimed invention (subject matter to be patented). From a review of the application and the pending claims, it appears that the concepts disclosed, as well as the claimed subject matter, can be described through the use of language, and if necessary, appropriate mechanical drawing convention to indicate the use of color.

As there is no showing that color drawings or color photographs are necessary as the only practical medium by which to disclose the subject matter to be patented, there is no basis for granting the request to include color drawings or photographs. Petitioner may file a request for reconsideration, provided that such is done within two months of the date of this decision. See 37 CFR 1.181(f). In the absence of a decision granting the request to use color photographs or drawings, petition is required to cancel the paragraph beginning at line 7 of page 7 of the specification, and to supply formal black and white drawings for Figures 2A through 2G.

PETITION DENIED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Santangelo Law Offices, P.C.
Third Floor
125 South Howes
Fort Collins, CO 80521

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

OCT -9 2002

Paper No. 7

In re Application of
Keith E. Hess *et al*
Application No. 10/119,194
Filed: July 19, 2002
Attorney Docket No. HessNonProv

: DECISION ON PETITION

This is a decision on the petition filed on August 29, 2002 by which petitioners have requested that the above captioned application be accorded special status for advanced examination out of turn. The $130.00 petition fee has been received.

The petition is granted.

Petitioners' request special status based upon the practice established at MPEP § 708.02(II), Infringement. A review of the petition shows that petitioners have clearly met the requirements for a showing in support of a petition to make special based upon the existence of an infringing device.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3727 who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Santangelo Law Offices, P.C.
Third Floor
125 South Howes
Fort Collins, CO 80521

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/199,194	07/19/2002	Keith E. Hess	HessNonProv	9407

33549 7590 01/03/2008
SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS, CO 80521

EXAMINER
DUONG, THANH P

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
01/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GC

Mailed:

In re application of	:	
Hess et al.	:	
Serial No. 10/199,194	:	DECISION ON
Filed: July 19, 2002	:	PETITION
For: SYSTEMS OF SPORT PERFORMANCE	:	
ENHANCEMENT AND MARKETING	:	

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(a)(2) and (b)(2), filed July 19, 2002, which was denied in the Petition Decision mailed October 9, 2002 and the request for reconsideration filed December 9, 2002.

The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv) (Original Specification page 5 contains the required language), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met. The request for reconsideration filed December 9, 2002 is sufficient to satisfy the requirement for an explanation stating why color photographs are necessary.

The Petition is **GRANTED**.

Glenn Caldarola
Supervisory Patent Examiner
Technology Center 1700

SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS CO 80521

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

Thomas M. Isaacson
AT & T Corporation
P.O. Box 4110
Middletown, NJ 07748

COPY MAILED

JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Mehryar MOHRI et al.	:	
Application No. 10/199,220	:	DECISION GRANTING PETITION
Filed: July 18, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2001-0251	:	

This is a decision on the petition, filed May 14, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on December 30, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The instant application has a projected publication date of June 26, 2003.

Any inquiries concerning this decision may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2654 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
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP. (AVE)
C/O LAW OFFICE OF ANTHONY ENGLAND
PO BOX 5307
AUSTIN TX 78763-5307

COPY MAILED
DEC 1 8 2006
OFFICE OF PETITIONS

In re Application of Bhogal :
Application No. 10/199,231 :
Filing Date: July 18, 2002 :
Attorney Docket No. AUS920020253US1 :

Decision on Application
For Patent Term Adjustment

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed October 2, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred eighty-seven (587) days to seven hundred twenty-seven (727) 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 six hundred thirty-one (631) days. A copy of an updated PAIR screen, showing the correct determination, is enclosed.

On July 14, 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 587 days. On October 2, 2006, applicant timely[1] submitted the instant application for patent term adjustment.

Applicant asserts the patent term adjustment should not have been reduced by applicants' delay resulting from the filing of an improper amendment on January 26, 2006. Applicant requests removal of the 140-day reduction on the ground that the "PTO incorrectly penalized Applicant for an Informal or Non-Responsive Amendment."

Applicant states that the patent issuing from this application is not subject to a terminal disclaimer. Applicants assert that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment

[1] PALM records indicate that the Issue Fee payment was received in the Office on October 2, 2006.

set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;
>
> (8) 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.

Applicant filed a reply to a non-final Office action on December 12, 2005. One day later, on December 13, 2005, applicant filed an IDS. The record does not support a conclusion that the IDS was expressly requested by the examiner. Applicant does not argue that it was. The IDS was not accompanied by a statement under 37 CFR 1.704(d).[2] Therefore, a reduction of 1 day is proper pursuant to 37 CFR 1.704(c)(8).

On January 26, 2006, applicant filed a "SUPPLEMENTAL REPLY." Since the paper appears to have been expressly requested by the examiner, a reduction pursuant to 37 CFR 1.704(a)(8) is unnecessary.

The supplemental reply filed January 26, 2006, failed to comply with the requirements of 37 CFR 1.121. As a result, a Notice of Non-Compliant Amendment was mailed April 5, 2006. The claims filed with the supplemental reply failed to include proper identifiers. Applicant does not contend the supplemental reply complied with the requirements of 37 CFR 1.121. A corrected amendment was filed May 1, 2006. Since the supplemental reply omitted the proper claim identifiers, a reduction of 95 days pursuant to 37 CFR 1.704(c)(7) is proper due to the delay from January 27, 2006, to May 1, 2006.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 587 days is incorrect. A reduction of 96 days, not 140 days, is appropriate for applicant delay. In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred thirty-one (631) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed

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[2] The rules make clear that the only exception to entry of a reduction for filing an IDS under circumstances that otherwise constitute a failure to engage in reasonable efforts to conclude prosecution is compliance with § 1.704(d). That is, filing of the IDS within 30 days of the date 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 within 30 days of the date such communication was received by an individual designated in § 1.56(c).

approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Soyama et al.	:	
Application No. 10/199,233	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 16869N-053300US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 16, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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FEB 24 2003

OFFICE OF PETITIONS

In re Application of Rudin et al. Application No. 10/199,234 Filed: July 18, 2002 Attorney Docket No. 19226/2121 (R-5692)	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed December 20, 2002, requesting that the above-identified application be accorded a filing date of July 18, 2002, rather than the presently accorded filing date of July 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on July 18, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV138581869US. Although the "date-in" indicated on the Express Mail label is July 17, 2002, the label contains a United States Postal Service (USPS) stamp of July 18, 2002. Additionally, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EV138581869US was accepted in Express Mail service in Rochester, New York, on July 18, 2002, at 4:52 p.m. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to July 18, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 11

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OFFICE OF PETITIONS

Robert Jaime Rabell
1400 Pine Island Road N.E.
Cape Coral, FL 33909

In re Application of :
Rabell :
Application No. 10/199,252 :
Filed: July 22, 2002 :
For: Drywall T-square Circular Saw Holder Attachment :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 3, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 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 was deemed abandoned as of December 13, 2003. A Notice of Abandonment was mailed on May 5, 2004..

Petitioner contends a reply to the Office action was timely filed. A review of the file has resulted in the location of the reply filed November 5, 2003, among copies of prior art in the file. Therefore, the record clearly indicates a reply was timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, a refund of the $55 petition fee will be scheduled.

As a courtesy, a copy of a portion of the Manual of Patent Examining Procedure discussing 37 CFR 1.8 and 37 CFR 1.10 is enclosed.

The file is being forwarded to the examiner in Technology Center Art Unit 3724 for review of the reply filed November 5, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of Portion of MPEP discussing Rule 8 and Rule 10

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,738,225	2004-05-18	10/199,280	2002-07-18	124-001-6738225

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	/Joel D. Voelzke/	Date (YYYY-MM-DD)	2010-04-07
Name	Joel D. Voelzke	Registration Number	37957

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6738225
Issue Date: May 18,2004
Application No. 10199280
Filed: July 18,2002
Attorney Docket No. MGNC-49CIPD

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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OFFICE OF PETITIONS

In re Application of	:	
Ozaki et al.	:	
Application No. 10/199,291	:	ON PETITION
Filed: 19 July, 2002	:	
Attorney Docket No. 16869S-053600US	:	

This is a decision on the petition, filed on 4 September, 2003, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated 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(a) is **DISMISSED AS MOOT**.

The application became abandoned on 22 October, 2002, for failure to timely reply to the Notice to File Missing Parts mailed on 21 August, 2002, which required an oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. No

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[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)).

extensions of time in accordance with 37 CFR 1.136(a) were obtained. The filing of this petition precedes the mailing of Notice of Abandonment.

Petitioners assert that the Notice mailed on 21 August, 2002, was never received.

A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] 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).

Petitioners have provided a statement by counsel that a search of the docket records and file wrapper indicates that the Notice was never received. Additionally, petitioners have provided a copy of both counsel's personal docket record as well as the law firm's docket report, both showing where the Notice mailed on 21 August, 2002, would have been docketed had it been received.

In view of the above, the petition is granted.

The holding of abandonment is withdrawn. As the petition under 37 CFR 1.137(a) is dismissed as moot, the petition fee of $110.00 will be credited to counsel's deposit account, No. 20-1430.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, DC 20036-5339

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OFFICE OF PETITIONS

In re Application of

Inagaki, et al.

Application No. 10/199,321

Filed: July 22, 2002

Attorney Docket No. 107348-00256

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed June 29, 2004, which set a shortened statutory period fro reply of three months from its mailing date. The record reflects that a Request for Continued Examination (RCE) was filed on December 29, 2004, along with a request fro an extension of time within the third month, however; the RCE was not accepted because it did not include a submission as required by 37 CFR 1.114. The application became abandoned on December 30, 2004.

The continuing application 11/046,681, filed February 1, 2005, is noted.

The application is being directed to Technology Center 2800, GAU 2831 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Pietro Rando et al	:	
Application No. 10/199,340	:	DECISION GRANTING PETITION
Filed: July 19, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1610-91	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 26, 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 $275 extension of time submitted with the petition on December 2, 2004 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1615.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 20305

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

FEB 17 2005

In re Application of:
Jong Bo Shim
Serial No.: 10/199,343
Filed: July 19, 2002
Attorney Docket No.: **AB-1179 US**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed March 09, 2004, and resubmitted on January 04, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on November 25, 2004. A Notice of Abandonment was mailed on February 25, 2004.

Petitioner asserts that the Notice of Allowance was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notices were not received. A copy of the file docket where the Notice of Allowance would have been entered was also included.

A review of the written record for the above-identified application shows that the address used in mailing the Notice of Allowance was incorrect. A Request to Withdraw from Representation was filed by Norman R. Klivans on November 29, 2002. The request also indicated that the correspondence address should be changed. The review of the record does not indicate that the change of address was ever completed. As a result, the Notice of Allowance mailed on November 25, 2004, was sent to the incorrect address. Accordingly, it cannot be presumed that the Notice of Allowance reached practitioner at the correspondence address of record. Therefore, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory period for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. None

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of
Jong Bo Shim
Application No. 10/199,343
Filed: July 19, 2002
Attorney Docket No. AB-1179 US
Title: SEMICONDUCTOR PACKAGE AND METHOD FOR MANUFACTURING THE SAME

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed on February 2, 2005 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 June 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on September 19, 2003. A Notice of Abandonment was mailed on February 25, 2004.

On March 9, 2004, Petitioner filed a petition under 37 C.F.R. §1.181(a), which was granted by a decision mailed on February 17, 2005.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

Consequently, the petition under 37 CFR §1.137(b) is **DISMISSED AS MOOT**. The petition fee will be refunded to Petitioner's Deposit Account, as authorized in this petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shim :
Application No. 10/199,343 :
Filed: July 19, 2002 :
Title: Semiconductor Package and Method for Manufacturing the Same :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 10, 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This application was held abandoned for failure to timely reply to the Corrected Notice of Allowance which was mailed March 9, 2005. The Corrected Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 10, 2005. A Notice of Abandonment was mailed on May 18, 2006.

Petitioner contends the Corrected Notice of Allowance and Notice of Allowability were never received.

Petitioner asserts that the Corrected Notice of Allowance and Fee (s) Due mailed on March 9, 2005 was never received. Petitioner states a search of the file jacket and docket records confirms the Corrected Notice of Allowance 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 **withdrawn**.

This application is being forwarded to Art Unit 2827 for re-mailing of the Notice of Allowance and the Notice of Allowability to the current correspondence address of record. The three month non-extendable 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

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APPLIED ELASTOMERICS INC
163 WEST HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of	:	
John Y. Chen	:	
Application No. 10/199,361	:	NOTICE
Filed: July 20, 2002	:	
Attorney Docket No. 45	:	

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 referred to Technology Center AU 1651.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Applied Elastomerics, Inc.
163 W. Harris Avenue
South San Francisco CA 94080

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OFFICE OF PETITIONS

In re Application of	:
Chen	:
Application No. 10/199,361	: DECISION ON PETITION
Filed: July 20, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 45	:
For: GELATINOUS ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 18, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has **not** been included in a concurrently filed amendment. Petitioner states that the reference will be submitted as an amendment to the first sentence of the specification in the first reply to the first Office action.

To avoid delays in prosecution, the **proposed** amendment accompanying the petition will be reviewed. The **proposed** amendment is not acceptable as drafted since it improperly incorporates by reference certain of 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).

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than** U.S. Application Nos. 10/199,362, 10/199,363, and 10/199,364, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In addition, some of the relationships stated in the amendment are confusing. From the end of the third line of the amendment, the relationships among and between the applications is unclear. As stated in MEPE 201.11, .."I[f] the benefit of more than one... application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications.... For example, a statement that "This application is a continuing application of Application Nos. C,B, and A" is improper." Please be as precise as possible in stating the relationships between applications.

---

[1] *Note* 37 CFR 1.121

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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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OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/199,361
Filed: July 20, 2002
Attorney Docket No. 45
For: GELATINOUS ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed August 1, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. The amendment is not acceptable as drafted since it improperly incorporates by reference certain of 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).

As stated in MPEP 201.11 Section III REFERENCE TO PRIOR APPLICATION(S), ... " When a benefit claim is submitted after the filing of an application, the reference to the prior application **cannot** include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application."

The specification-as-filed states: "The subject matter contained in the related applications and patents are specifically incorporated herein by reference." **This sentence on its face does not specifically identify prior applications other than the ones listed by application number or title and docket number.**

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than the ones specifically identified on July 20, 2002 in the original papers**, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

If petitioner persists in including an incorporation by reference statement with respect to applications not specifically identified in the July 20, 2002 original application papers in the

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[1] *Note* 37 CFR 1.121

specification-as-filed, then the delay in presenting the benefit claim may be construed as being ***intentional***.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: U.S. Patent and Trademark Office
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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 Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/199,361
Filed: July 20, 2002
Attorney Docket No. 45
For: GELATINOUS ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §365(c) for the benefit of priority to the prior-filed nonprovisional and PCT 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(s), unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 and §365(c) to the prior-filed nonprovisional and PCT 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 §365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1651 for appropriate action on the amendment filed September 12, 2005, 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 and PCT applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 1450
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APPLIED ELASTOMERICS INC
163 W. HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
John Y. Chen	:	
Application No. 10/199,362	:	NOTICE
Filed: July 20, 2002	:	
Attorney Docket No. 47	:	

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 referred to Technology Center AU 1651.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of Chen Application No. 10/199,362 Filed: July 20, 2002 Attorney Docket No. 47 For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT	: : : 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 February 18, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the 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 certain of 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:

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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).

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than** U.S. Application Nos. 10/199,361, 10/199,363, and 10/199,364, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In addition, some of the relationships stated in the amendment are confusing. From the end of the third line of the amendment, the relationships among and between the applications is unclear. As stated in MEPE 201.11, ."I[f] the benefit of more than one... application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications.... For example, a statement that "This application is a continuing application of Application Nos. C,B, and A" is improper." Please be as precise as possible in stating the relationships between applications.

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[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/199,362
Filed: July 20, 2002
Attorney Docket No. 47
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed August 1, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the 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 certain of 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:

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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).

As stated in MPEP 201.11 Section III REFERENCE TO PRIOR APPLICATION(S), ... " When a benefit claim is submitted after the filing of an application, the reference to the prior application **cannot** include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application."

The specification-as-filed states: "The subject matter contained in the related applications and patents are specifically incorporated herein by reference." **This sentence on its face does not specifically identify prior applications other than the ones listed by title and docket number.**

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than the ones specifically identified on July 20, 2002 in the original papers**, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

If petitioner persists in including an incorporation by reference statement with respect to

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[1] *Note* 37 CFR 1.121

applications not identified in the July 20, 2002 original application papers in the specification-as-filed, then the delay in presenting the benefit claim may be construed as being ***intentional***. Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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In re Application of
Chen
Application No. 10/199,362
Filed: July 20, 2002
Attorney Docket No. 47
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES FOR USE AS FISHING BAIT

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §365(c) for the benefit of priority to the prior-filed nonprovisional and PCT 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(s), unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 and §365(c) to the prior-filed nonprovisional and PCT 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 §365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1651 for appropriate action on the amendment filed September 12, 2005, 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 and PCT applications.

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JOHN Y. CHEN
1336 ODDSTAD BLVD
PACIFICA, CA 94044

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
John Y. Chen	:	
Application No. 10/199,363	:	NOTICE
Filed: July 20, 2002	:	
Attorney Docket No. 48	:	

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 referred to Technology Center AU 3732.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: APPLIED ELASTOMERICS INC
163 W. HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN Y. CHEN
1336 Oddstad Blvd.
Pacifica CA 94044

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/199,363
Filed: July 20, 2002
Attorney Docket No. 48
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES

: 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 February 18, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the 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 certain of 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).

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than** U.S. Application Nos. 10/199,361, 10/199,362, and 10/199,364, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In addition, some of the relationships stated in the amendment are confusing. From the end of the third line of the amendment, the relationships among and between the applications is unclear. As stated in MEPE 201.11, .."I[f] the benefit of more than one... application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications.... For example, a statement that "This application is a continuing application of Application Nos. C,B, and A" is improper." Please be as precise as possible in stating the relationships between applications.

---

[1] *Note* 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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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.

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOHN Y. CHEN
APPLIED ELASTOMERICS, INC.
163 WEST HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN Y. CHEN
1336 Oddstad Blvd.
Pacifica CA 94044

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of
Chen
Application No. 10/199,363
Filed: July 20, 2002
Attorney Docket No. 48
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed August 1, 2005, 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/PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the 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 certain of 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).

As stated in MPEP 201.11 Section III REFERENCE TO PRIOR APPLICATION(S), ... " When a benefit claim is submitted after the filing of an application, the reference to the prior application **cannot** include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application."

The specification-as-filed states: "The subject matter contained in the related applications and patents are specifically incorporated herein by reference." **This sentence on its face does not specifically identify prior applications other than the ones listed by title and docket number.**

A substitute amendment[1] deleting the incorporation by reference statement with respect to applications **other than the ones specifically identified on July 20, 2002 in the original papers**, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

If petitioner persists in including an incorporation by reference statement with respect to

---

[1] *Note* 37 CFR 1.121

applications not identified in the July 20, 2002 original application papers in the specification-as-filed, then the delay in presenting the benefit claim may be construed as being ***intentional***.

As stated in the prior decision, petitioner should submit a Change of Correspondence Address 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300 - ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOHN Y. CHEN
APPLIED ELASTOMERICS, INC.
163 WEST HARRIS AVENUE
SOUTH SAN FRANCISCO, CA 94080

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John Y. Chen
APPLIED ELASTOMERICS, INC.
163 WEST HARRIS AVENUE
SOUTH SAN FRANCISCO CA 94080

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of	:
Chen	:
Application No. 10/199,363	: DECISION ON PETITION
Filed: July 20, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 48	:
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES	

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §365(c) for the benefit of priority to the prior-filed nonprovisional and PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

It appears that petitioner submitted the amendment from the Rule 78 petition associated with application no. 10/199,36**2** from a review of the last page of the amendment which states, "...the subject matter contained in the related (said) applications ... U.S. Serial Nos.: 10/199,361; 10/199,363; and 10/199,364... are specifically incorporated herein by reference in this application (now U.S. Serial No.: 10/199,362)."

Petitioner should submit an amendment for application no. 10/199,36**3**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John Y. Chen
APPLIED ELASTOMERICS, INC.
163 WEST HARRIS AVENUE
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Application of	:
Chen	:
Application No. 10/199,363	: DECISION ON PETITION
Filed: July 20, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 48	:
For: GELATINOUS FOOD ELASTOMER COMPOSITIONS AND ARTICLES	

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed October 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §365(c) for the benefit of priority to the prior-filed nonprovisional and PCT 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(s), unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 and §365(c) to the prior-filed nonprovisional and PCT 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 §365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1651 for appropriate action on the amendment filed October 29, 2005, 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 and PCT applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

To: Certificate of Corrections Branch

Subject: US 6,822,020 (Serial No. 10/199,400)

Date: November 23, 2004

To Whom It May Concern:

The patent was printed without amending patented claims 7 and 8 as indicated in the supplemental notice of allowance dated October 15, 2004. Therefore, this certificate of correction is necessitated. To be consistent with the supplemental notice of allowance, the patent should be corrected as follows:

(1) On lines 3 and 4 of claim 7, after "consisting of", delete "a dialkyldihalosilane, a tetrahalosilane, and an alkoxysilane" and insert "dimethyldichlorosilane, silicon tetrachloride, and mercaptopropyltriethoxysilane".

(2) Cancel claim 8.

Note: No renumbering of claims is involved.

Sincerely,

Vasu Jagannathan
SPE, Art Unit 1714
(571) 272-1119

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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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FEB 2 4 2003

OFFICE OF PETITIONS

In re Application of Narbad et al. Application No. 10/199,405 Filed: July 18, 2002 Attorney Docket No. 20747/103 (PLAW/P17252U1	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed October 15, 2002, requesting that the above-identified application be accorded a filing date of July 18, 2002, rather than the presently accorded filing date of July 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on July 18, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EI989354298US. Although the "date-in" indicated on the Express Mail label is July 17, 2002, the label contains a United States Postal Service (USPS) stamp of July 18, 2002. Additionally, petitioner submitted a United States Postal Service Track & Confirm receipt, indicating that a package bearing Express Mail label No. EI989354298US was accepted by the USPS in Express Mail service in Rochester, New York on July 18, 2002, at 4:54 PM. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to July 18, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Alexander Novikov	: DECISION ON REQUEST FOR
Patent Number	: 7608252	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/199,407	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1473** 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.

#3

OIPE JC61 OCT 30 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/199,418	07/19/2002	Ponnuswamy Palanisamy	14123-8

CONFIRMATION NO. 1446

FORMALITIES LETTER

OC000000008694846

LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

Date Mailed: 08/28/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

10/31/2002 WABDELR1 00000004 501358 10199418
01 FC:1051 130.00 CH

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

NB

#3 MP $

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 14123-8

OIPE JC81 OCT 30 2002 PATENT & TRADEMARK OFFICE

In Re Application Of:

LOW TEMPERATURE CO-FIRED CERAMIC-METAL PACKAGING TECHNOLOGY

Serial No.	Filing Date	Examiner	Group Art Unit
10/199,418	07/19/2002	HEREWITH	2827

Title:

LOW TEMPERATURE CO-FIRED CERAMIC-METAL PACKAGING TECHNOLOGY

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Notice To File Missing Parts of NonProvisional Application
Declaration and Power of Attorney for Patent Application

in the above identified application.

- ☐ No additional fee is required.
- ☐ A check in the amount of is attached.
- ☐ The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. **501358** as described below. A duplicate copy of this sheet is enclosed.
  - ☐ Charge the amount of
  - ☐ Credit any overpayment.
  - ☒ Charge any additional fee required.

Alex Pagano 44,994 fee

Glen E. Books

Signature

Dated: **OCTOBER 25, 2002**

GLEN E. BOOKS, ESQ.
Reg. No. 24,950
LOWENSTEIN & SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NEW J ERSEY 07068

I certify that this document and fee is being deposited on 10/25/02 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Alayne Geller

Signature of Person Mailing Correspondence

ALAYNE GELLER

Typed or Printed Name of Person Mailing Correspondence

cc:

Copyright 1995 Legalsoft

OIPE JC61 OCT 30 2002 PATENT & TRADEMARK OFFICE

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. 14123-8

In Re Application Of: **PONNUSWAMY PALANISAMY**

Serial No.	Filing Date	Examiner	Group Art Unit
10/199,418	July 19, 2002	HEREWITH	2827

Invention: **LOW TEMPERATURE CO-FIRED CERAMIC-METAL PACKAGING TECHNOLOGY**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on August 28, 2002.
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☐ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

1. Declaration and Power of At torney - Executed -English Language Declaration

OIPE JC81 OCT 30 2002 PATENT & TRADEMARK OFFICE

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. 14123-8

Application Of: **PONNUSWAMY PALANISAMY**

Serial No.	Filing Date	Examiner	Group Art Unit
10/199,418	JULY 19, 2002	HEREWITH	2827

Invention:

LOW TEMPERATURE CO-FIRED CERAMIC-METLA PACKAGING TECHNOLOGY

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee	
☐ Design application filing fee	
☐ Total number of independent claims = _____	
☐ Total number of claims = _____	
☐ Multiple dependent claims	
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	$130.00
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	
☐ Fee for processing an application filed with a non-English language specification	
☐ Fee for processing and retention of application	
Total completion of application fees	$130.00

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees _____

Total fees due $130.00

P31LARGE/REV02

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. 14123-8

In Re Application Of: **PONNUSWAMY PALANISAMY**

Serial No.	Filing Date	Examiner	Group Art Unit
10/199,418	JULY 19, 2002	HEREWITH	2827

Invention:

LOW TEMPERATURE CO-FIRED CERAMIC-METLA PACKAGING TECHNOLOGY

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of **$130.00** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **501358**
  A duplicate copy of this sheet is enclosed.
- ☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No.
  A duplicate copy of this sheet is enclosed.

Glen E. Books
Signature

Dated: **October 25, 2002**

GLEN E. BOOKS, ESQ.
Reg. No. 24, 950
LOWENSTEIN SANDLER, PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

I certify that this document and fee is being deposited on **October 25, 2002** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Alayne Geller
Signature of Person Mailing Correspondence

ALAYNE GELLER
Typed or Printed Name of Person Mailing Correspondence

cc:

P31LARGE/REV02

SPE: T. Meeks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/19/06

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/199,419 Patent No.: 7081271

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: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762
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. 9

ROSENTHAL & OSHA LLP/SUN
1221 McKINNEY, SUITE 2800
HOUSTON, TX 77010

COPY MAILED

OCT 21 2003

OFFICE OF PETITIONS

In re Application of
Pradeep Trivedi et al
Application No. 10/199,426
Filed: July 19, 2002
Attorney Docket No. 03226.239001; P8338

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed October 20, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 7, 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 2816 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES 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

Date : October 21, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/199,426**

Applicant(s) : Pradeep Trivedi et al
Application No. : 10/199,426
Filed : July 19, 2002

The above-identified application has been assigned Patent No. 6,639,440 and an issue date of October 28, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 28, 2003:

> **"All reference to Patent No. 6,639,440 to Pradeep Trivedi et al of California for PHASE LOCKED LOOP DESIGN WITH DIODE FOR LOOP FILTER CAPACITANCE LEAKAGE CURRENT CONTROL appearing in the Official Gazette of October 28,2003 should be deleted since no patent was granted."**

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

OIPE JC54 NOV 12 2002 PATENT & TRADEMARK OFFICE

#4

MP/$

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
10/199,485	07/18/2002	Maria Alexandra Glucksmann	35800/249468 (5800-111CIP

CONFIRMATION NO. 1162

FORMALITIES LETTER

OC000000008767599

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 09/12/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

11/13/2002 MMEKONEN 00000110 10199485

01 FC:1001	740.00 OP
02 FC:1051	130.00 OP
03 FC:1201	84.00 OP
04 FC:1202	126.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of $**210** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**1080** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$210**
  - **$126** for **7** total claims over 20.
  - **$84** for **1** independent claims over 3.

A copy of this notice MUST be returned with the reply.

Y. G

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
NOV 12 2002
PATENT & TRADEMARK OFFICE

Attorney's Docket No. 35800/249468 (5800-111CIP) PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Glucksmann *et al.*
Appl No.: 10/199,485 Confirmation No.: 1162
Filed: July 18, 2002
For: 20685, 579, 17114, 23821, 33894 and 32613, NOVEL HUMAN TRANSPORTERS

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE TO
FILE MISSING PARTS OF APPLICATION

Sir:

In response to the Notice to File Missing Parts of Application dated September 12, 2002, enclosed are the following:

- ☒ Part 2 of Formalities Letter or Form PTO-1533 (Notice to File Missing Parts of Application)
- ☒ Declaration and Power of Attorney for the above-identified application, which has been executed by the named inventor(s)
- ☐ Applicant claims small entity status
- ☒ Check in the amount of $1080.00 to cover: the filing fee of 740.00; the $130.00 surcharge under 37 C.F.R.§ 1.16(e); and the fee of $210.00 for additional claims as a non-small entity
- ☐ English Translation and $130.00 (37 CFR 1.17(k)) fee for filing late.
- ☐ Other:

☒ Any deficiency, additional fee, or credit may be charged to our Deposit Account No. 16-0605.

Respectfully submitted,

Andrew O. Scheinman
Registration No. 50,730

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

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: **Box Missing Parts**, Commissioner for Patents, Washington, DC 20231, on November 7, 2002.

Marilyn Munoz

OIPE JC54
NOV 12 2002
PATENT & TRADEMARK OFFICE

#4

Attorney's Docket No. 35800/249468 (5800-111CIP) PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Glucksmann *et al.*
Appl No.: 10/199,485 Confirmation No. 1162
Filed: July 18, 2002
For: 20685, 579, 17114, 23821, 33894 and 32613, NOVEL HUMAN TRANSPORTERS

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

SUBMITTAL OF DECLARATION
UNDER 37 C.F.R. § 1.63

Sir:

Enclosed is a Declaration and Power of Attorney for the above-identified patent application that has been executed by the named inventors.

A check in the amount of $130 is also enclosed to cover the surcharge under 37 C.F.R. § 1.16(e). Any additional fee or credit may be charged to our Deposit Account No. 16-0605.

Respectfully submitted,

Andrew Scheinman

Andrew O. Scheinman
Registration No. 50,730

Customer No. 00826 **ALSTON & BIRD LLP** Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	**CERTIFICATE OF MAILING** I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: **Box Missing Parts**, Commissioner for Patents, Washington, DC 20231, on November 7, 2002. Marilyn Muñoz

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 12-02

Paper No. 4

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

COPY MAILED

DEC 13 2002

OFFICE OF PETITIONS

In re Application of	:
Horn, Dowd, and Thornton	:
Application No. 10/199,487	: DECISION REFUSING STATUS
Filed: 19 July, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 11264-9038-01	:

This is in response to the petition under 37 CFR 1.47(a) filed on 21 October, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 19 July, 2001, without an executed oath or declaration. Accordingly, on 15 August, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing.

In response, on 21 October, 2002 (certificate of mailing date 15 October, 2002) petitioners filed the basic filing fee, additional claim fee(s), the present petition and petition fee, and a declaration naming Edward R. Horn, Robert E. Dowd, and Thomas J. Thornton as joint inventors and sign by joint inventors Horn and Thornton on behalf of joint inventor Dowd.

Petitioners state that a copy of the application papers were sent to joint inventor Dowd, but were returned as undeliverable.

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 (5).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor.[1] Petitioners have not shown that any efforts were made to obtain a more recent address. A brief Internet search reveals that Dowd may now be residing at another address in Oconomowoc, WI. Petitioners should show that diligent efforts were made to give or send a copy of the application papers (specification, claims, drawings, if any, and the declaration) at the inventor's last known address. Petitioners should submit a copy of the cover letter transmitting the application papers to the nonsigning inventor at the last known address or, if presented in hand affidavits or declarations of facts by a person having first-hand knowledge of the details thereof.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed

[1] MPEP 409.03(d).

petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

In regards to item (5), if a more recent last known address is discovered for the last known address, that address must be provided with any renewed petition.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 08-2025, as authorized on the transmittal letter accompanying the 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW.03-03

Paper No. 7

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

COPY MAILED

MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Horn, Dowd, and Thornton	:	
Application No. 10/199,487	:	DECISION ACCORDING STATUS
Filed: 19 July, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 11264-9038-01	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 19 February, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown that a copy of the application sent to the non-signing inventor's last known address was returned as undeliverable by the U.S. Postal Service. Additionally, the declaration of facts by petitioners' registered patent counsel, establishes that despite diligent efforts made to locate the non-signing inventor, the inventor could not be located.

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 inventors at the addresses 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 above-identified 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.

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, D.C. 20231
www.uspto.gov
DW 03-03

Robert E. Dowd
N50 W35278 Wisconsin Avenue
Oconomowoc, WI 53066

COPY MAILED
MAR 0 4 2003
OFFICE OF PETITIONS

In re Application of
Horn et al.
Application No. 10/199,487
Filed: 19 July, 2002
For: VALVE ARRANGEMENT INCLUDING RELEASE VALVE

Dear Mr. Dowd:

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

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH, LLP
100 E. WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward R. Horn, et. al.	:	
Application No. 10/199,487	:	DECISION ON PETITION
Filed: July 19, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 11264-9038-01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The instant petition seeks acceptance of an amendment to the first sentence of the specification to read: "The present Application is a continuation-in-part of co-pending U.S. Patent Application Serial No. 09/460,443, filed December 13, 1999, now issued as U.S. Patent No. 6,477,937."

Since the Office was able to schedule the application for publication with the relationship given, the petition under 37 CFR 1.78(a)(3) and the $1,300 submitted with the petition are unnecessary. Therefore, 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.

A replacement Filing Receipt which properly references the relationship of the present application to prior-filed application No. 09/460,443 accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 3753.

Any questions concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

Fulwider Patton Lee & Utecht, LLP
Howard Hughes Center
6060 Center Drive, 10th Floor
Los Angeles, CA 90045

FEB - 2 2004

In re Application of:
Ronald A. Bax et al.
Serial No.: 10/199,488
Filed: July 19, 2002
Attorney Docket No.: HY AIR-61138

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on September 15, 2003 under 37 C.F.R. § 1.102(d) requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

The petition is GRANTED.

MPEP § 708.02 II requires, besides a petition, petition fee and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, 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 good knowledge of the pertinent prior art.

The petition filed September 15, 2003 has been considered and found to comply with all the requirements set forth in MPEP § 708.02 II.

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 Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 1 1 2005
OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/199,496	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. 12732-109001/US5860/599	:	

This is a decision on the petition, filed October 7, 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 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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

#13

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Baker Botts L.L.P.
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980

MAILED
FROM DIRECTORS OFFICE

MAY 17 2005

TECHNOLOGY CENTER 3600

In re Application of
C. Eugene Buth, et al.
Application No. 10/199,540
Filed: July 19, 2002
For: BOX BEAM TERMINALS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on September 2, 2004.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed on July 15, 2003, with a three-month shortened statutory period for response. The application was held abandoned for failure to timely respond to the Office action mailed on July 15, 2003, and a Notice of Abandonment was mailed on February 17, 2004.

Applicants contend, that an Associate Power of Attorney Under 37 CFR 1.34(b) and Change of Correspondence Address were filed in January of 2003, that the Office action was mailed to an incorrect correspondence address on July 15, 2003, and that applicants never received the Office action.

A review of the application file reveals that applicants submitted an Associate Power of Attorney Under 37 CFR 1.34(b) and Change of Correspondence Address on January 29, 2003. That correspondence address appears to have been incorrectly entered into the USPTO database. As a result, the July 15, 2003 Notice of Non-Compliant Amendment was mailed to an incorrect address. The USPTO database has since been corrected.

Since the Office action was not properly addressed, applicants' petition to withdraw the holding of abandonment is granted.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment, and restore the application to pending status before re-dating and re-mailing the Office action (non-final rejection) previously mailed on July 15, 2003.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

SNM/rwg: 12/15/04

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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MAILED

JUN 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

In re application of
Happy Moselle
Application No. 10/199,565
Filed: July 19, 2002
For: FIRE RESISTANT BARRIER

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(COUNTER TERRORISM)**

This is in response to the petition filed on August 27, 2002 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI. The delay in deciding this petition is regretted.

The petition is **DISMISSED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition fails to meet requirement (B) above.

Applicant states that the invention "preserves the integrity of fire barriers between floors and/or walls of buildings" and thus "limit[s] and mitigat[es] the damage caused by fires started in buildings for terroristic purposes". This argument is insufficient. The specification does not disclose or suggest using the invention for countering terrorism nor does the invention fall into one of the types of inventions contemplated by MPEP § 708.02 XI (i.e., systems for detecting/identifying explosives, aircraft sensors/security systems and vehicular barricades/disabling systems). ." Nothing in the invention acts to directly counter terrorism, but would appear to provide an improvement in retarding the spread of fires in building structures. MPEP § 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, above, these examples all clearly act to directly counter terrorism. Thus, the argument by the applicant is not seen as being sufficient to accord special status to this application.

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 5/24/04

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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MILTON S. SALES
EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

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FEB 04 2005

OFFICE OF PETITIONS

In re Patent No. 6,789,884	:	
Issue Date: September 14, 2004	:	
Application No. 10/199,574	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 80054N-R	:	

This is a decision on the petition submitted on September 1, 2004, requesting that the above-identified application be accorded a filing date of July 19, 2002, instead of the present filing date of October 23, 2002.

As previously stated in the Notice of Omitted Items In a Nonprovisional Application (Notice) of August 27, 2002, the above-identified application had been accorded a filing date of July 19, 2002. The record supports applicant's assertion that the United States Patent and Trademark Office erroneously changed the application filing date to October 23, 2002, the date of applicant's response to the Notice.[1] The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The $130.00 petition fee has not been charged.

The file is being forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction with the correction of the filing date to July 19, 2002.

---

[1] Applicant appropriately filed a preliminary amendment that added the omitted item. The filing date should not have been changed, as stated in "Option III" of the Notice.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Darcell Walker
Suite 250
9301 Southwest Freeway
Houston, TX 77074

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of
William A. Brown, et. al.
Application No. 10/199,588
Filed: July 18, 2002
Attorney Docket No. AUS920020135US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 15, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of an Appeal Brief and $510 fee filed October 30, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to Technology Center Art Unit 2157 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Darcell Walker
P.O. Box 25048
Houston, TX 77265

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
10/199,616	07/17/2002	Charles A. Cappellino	911-100.002

CONFIRMATION NO.
9651

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on November 10, 2003.
The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The Application was published on January 22, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040013032A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has been published** as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KARL M. STEINS
STEINS & ASSOCIATES
SUITE 120
2333 CAMINO DEL RIO SOUTH
SAN DIEGO, CA 92108

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Larry Ross, et al. :
Application No. 10/199,629 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No. ROS4-F62 :

This is a decision on the petition, filed March 10, 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 September 10, 2003. A Notice of Abandonment was mailed on April 20, 2004. On March 10, 2005, an amendment, including a three (3) month extension of time, and the present petition were filed.

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. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $510 extension fees paid. Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (703) 308-5077.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

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 3676 for consideration of the amendment filed March 10, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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DEC 3 0 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Daniela Brunner et al	:	
Application No. 10/199,634	:	
Filed: July 19, 2002	:	
Attorney Docket No. 4172-4001US2	:	

This is a decision on the petition, filed December 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 July 29, 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 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : December 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Daniela Brunner et al
Application No. :10/199,634
Filed :July 19, 2002

The above-identified application has been assigned Patent No. 6,984,638 and an issue date of January 10, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 10, 2006:

"All reference to Patent No. 6,984,638 to Daniela Brunner et al of New York for TREATMENT FOR ATTENTION-DEFICIT HYPERACTIVITY DISORDER appearing in the Official Gazette of January 10, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Paper No. 17

JENNIFER H. HAMMOND
THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE, CA 91326

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Kanwar Chadha	:	
Application No. 10/199,649	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. ST01020USU	:	

This is a decision on the petition, filed July 9, 2004, 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 above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 9, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2004.

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
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By facsimile: (703) 872-9306
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
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

Advisory Action	Application No.	Applicant(s)
	10/199,649	CHADHA, KANWAR
	Examiner	Art Unit
	Fred H. Mull	3662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (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.

PERIOD FOR REPLY [check either a) or b)]

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. ONLY CHECK THIS BOX 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).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) 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*.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

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: *1-3 and 5-20*.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Fred H. Mull
703-305-1250

Continuation of 2. NOTE: The language added to claims 1 and 10 has not been addressed in the prosecution history, and thus would require further consideration..

THOMAS H. TARCZA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JENNIFER H. HAMMOND
THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE, CA 91326

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Kanwar Chadha	:	
Application No. 10/199,649	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. ST01020USU	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 4, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This is being forwarded to Technology Center AU 3662 for further processing.

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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CHARMASSON, BUCHACA & LEACH, LLP
1545 HOTEL CIRCLE SOUTH, SUITE 150
SAN DIEGO CA 92108-3426

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DEC 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter Timmes et al. :
Application No. 10/199,652 :
Filed: July 22, 2002 :
Attorney Docket No. **1752.1-2** :

This is a decision on the petition filed September 29, 2006 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 February 3, 2006 for failure to timely pay the issue fee on or before February 2, 2006. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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#9

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ALEXANDRIA, VA 22313-1450
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MAILED

JUN 25 2004

Office of the Director
Group 3600

CNH America LLC
CNH NAR Intellectual Property Law Department
700 State Street
Racine, WI 53404

In re Application of
John G. Brome
Application No. 10/199,681
Filed: July 19, 2002
For: HYDRO-MECHANICAL THRESING ROTOR CONTROL SYSTEM FOR AN AGRICULTURAL COMBINE

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 May 21, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated September 16, 2003 which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on September 16, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 6/22/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,836,585	2004-12-28	10/199,691	2002-07-18	11347.1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Neil K. Nydegger/	Date (YYYY-MM-DD)	2009-12-18
Name	Neil K. Nydegger	Registration Number	30202

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6836585
Issue Date: December 28,2004
Application No. 10199691
Filed: July 18,2002
Attorney Docket No. 11347.1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 18,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 18,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRANDON N. SKLAR
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK NY 10022

COPY MAILED

JUN 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jevan Damadian et al	:	
Application No. 10/199,697	:	
Filed: July 19, 2002	:	
Attorney Docket No. 274/218	:	

This is a decision on the petition, filed June 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **Dismissed as moot.**

The petition is dismissed as moot because the application was withdrawn from issue on June 18, 2007 by the request of the director of Technology Center 2800 on June 18 2007.

The Request for Continued Examination (RCE) will be placed in the file with no further consideration.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

EPHRAIM STARR, GENERAL COUNSEL
HONEYWELL INTERNATIONAL INC.
23326 HAWTHORNE BOULEVARD #200
TORRANCE, CA 90505

MAILED

JUN 09 2003

Director's Office
Group 3700

Paper No. 3

In re Application of
ARNOLD, STEVEN DON
Application No.: 10/199,703
Filed: July 19, 2002

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 19, 2002 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, V and VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

JDA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/18/05

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction on Patent No.: 6796414

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.

Lamonte Newsome

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:

_____

_____

_____

_____

_____

C Mann — **SPE**

3681 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR

PAPER NO. 4

JUL 23 2003

In re Application of Charles C. Miles Serial No:10/199,735 Filed: July 18, 2002 For: CENTRIPETAL GAS PURIFYING SYSTEM AND METHOD	:	PETITION UNDER M.P.E.P. 708.02, IV

This is in response to the petition filed April 28, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Alan D. Kirsch
734 E. Countryside Lane
Idaho Falls, ID 83404

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON MA 02110

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of
Lynda Jeanne McNally et al
Application No. 10/199,742
Filed: July 20, 2002
Attorney Docket No. ENDP01/0011

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/306,786, filed July 20, 2001.

The petition is **Granted.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 20, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/306,786, which was filed on July 20, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/306,786 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 Karen Creasy at (703) 305-8859.

The examiner of Technology Center AU 3764 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 10/199,742, filed July 20, 2001.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

Daniel A. Crowe
Bryan Cave, LLP
211 N. Broadway, Suite 3600
St. Louis MO 63102-2750

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Porrata et al. :
Application No. 10/199,747 : ON PETITION
Filed: July 18, 2002 :
Attorney Docket No. 170146 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Office communication mailed on November 4, 2003, which set a one-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on December 5, 2003. A Notice of Abandonment was mailed on May 18, 2004.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a response to the Restriction Requirement, 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. The $1,005.00 extension of time fee submitted with the petition on May 28, 2004, was subsequent to the maximum period obtainable for reply. Therefore, the fee is unnecessary and will be credited to Deposit Account No. 02-4467.

The file is being forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Sunil K. **SRIVASTAVA, et al.** :
Application No. 10/199,760 :
Filed: July 19, 2002 :
Attorney Docket No. **50325-0627** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 3, 2008. Accordingly, the date of abandonment of this application is February 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
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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BROWN, RUDNICK, BERLACK &
ISRAELS, LLP.
BOX IP, 18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

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DEC 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Slutter, et al.	:	
Application No. 10/199,767	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 25619/110	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 18, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 3, 2006, after it was believed that no response was received to the non-final Office action mailed December 2, 2005. 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 review of the application file reveals that an amendment responsive to the non-final Office action was filed on June 5, 2006 (certificate of mailing dated June 2,2 006), along with a request for an extension of time within the third month. Notwithstanding, a Notice of Abandonment was mailed on June 13, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that the response to non-final Office action was timely filed. The abandonment is being withdrawn on the basis of the undersigned review of the application file and discovery of amendment filed June 5, 2006, that is responsive to the non-final Office action.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the maximum statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 2600, GAU 2618 for further processing, including processing of the amendment filed June 5, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON MA 02111

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DEC 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Slutter et al.	:	
Application No. 10/199,767	:	DECISION ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 26719/2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 21, 2008, as required by the Notice of Allowance and Fee(s) Due mailed February 21, 2008. Accordingly, the date of abandonment of this application is May 22, 2008. A Notice of Abandonment was mailed June 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. 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 Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal
Thompson Hine LLP
335 Madison Avenue, 12th Floor
New York, New York 10017-4611

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 13, 2005

TO SPE OF : ART UNIT 1724 (*Exr. is Robert Popovics*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,145

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the claim and drawing changes. Your denial or approval decision is needed below.

sp STM

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

NOV - 6 2002

#4

INTERVET INC
405 STATE STREET
PO BOX 318
MILLSBORO DE 19966

In re Application of	:
Ivo Eggen et al	:
Serial No.: 10/199,785	: PETITION TO MAKE SPECIAL
Filed: Jul;y 19, 2002	:
Attorney Docket No.: O 2000.661	:

This is in response to applicants' petition filed October 21, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 22 2005

Director's Office
Group 3700

Ephraim Starr
Honeywell International Inc.
23326 Hawthome Boulevard, Suite 200
Torrance, CA 90505

In re Application of
Diaa Hosny et al.
Serial No. 10/199790
Filed: July 19, 2002

DECISION ON PETITION
TO MAKE SPECIAL

For: NOISE CONTROL

Applicant's petition, July 19, 2002, seeks to have this application made special based upon the Energy Conservation 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(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

rt/ 6/21/05

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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LEE, HONG, DEGERMAN, KANG & SCHMADEKA
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Kyung-Ho Min	:	
Application No. 10/199,794	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 2060-3-27	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 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) was obtained. Accordingly, the application became abandoned on March 9, 2006. The Notice of Abandonment was mailed on November 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-2991.

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUSCH & EPPENBERGER, LLC
401 MAIN STREET, SUITE 1400
PEORIA, IL 61602

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Barbara Pause, et al. :
Application No. 10/199,795 : ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. 64251-040 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37CFR 1.113 to the final Office action of May 13, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition on December 17, 2004, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. See attached Advisory Action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

UNITED STATES 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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AUG 17 2005
OFFICE OF PETITIONS

HUSCH & EPPENBERGER, LLC
401 MAIN STREET, SUITE 1400
PEORIA, IL 61602

In re Application of	:	
Barbara Pause, et al.	:	
Application No. 10/199,795	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. 64251-040	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

It is noted that petitioner has tendered the small entity amount of $750 for the petition fee, whereas the fee for large entity is $1500. It is also noted that petitioner submitted a check for $500 with the instant petition. Therefore, the remaining balance of $250 will be charged to petitioner's deposit account as authorized.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail future correspondence solely to the address of record.

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; and (3) the required statement of unintentional delay. Accordingly, the petition filed July 11, 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 1714 for processing the Request for Continued Examination (RCE) under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robert C. Haldiman
Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

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

NOV - 6 2002

INTERVET INC
405 STATE STREET
PO BOX 318
MILLSBORO DE 19966

#4

In re Application of	:
Ivo Eggen et al	:
Serial No.: 10/199,805	: PETITION TO MAKE SPECIAL
Filed: Jul;y 19, 2002	:
Attorney Docket No.: O 2000.662	:

This is in response to applicants' petition filed October 21, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JAN 14 2003

Paper No. 4

In re Application of
Jan Essebaggers
Application No. 10/199,812
Filed: July 22, 2002
For: Self Regulating Spout

: DECISION ON PETITION

This is a decision on the petition filed on November 21, 2002 by which special status for advanced examination was requested. The petition fee of $130.00 has been received.

The petition is dismissed.

A petition to make special requires more than the payment of a fee. The petition must state a specific basis for the request, and, with respect to many of the bases for requesting special status, must include a specific showing in support of facts required to establish that basis. The present petition does not request special status for any specific reason, and contains nothing in the way of a showing to establish entitlement to special status.

Attached are photocopies of the relevant pages from the Manual of Patent Examining Procedure (MPEP) which explain the various available bases for requesting special status, and the showings in support of each of these bases.

Petitioner may renew the petition for special status, without additional fee. However, a renewed petition must be filed within two months from the date of this decision. The renewed petition must also include a specific basis for the request for special status, and must include material in support of the request as discussed in the MPEP.

The application is being retained in Technology Center 3700 waiting first action in the regular course of business.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Attachment

J. Essebaggers
Burg. Vogelaarsinhgel 11
Nieuwerkerk ad IJssel 2912 BB NL
NETHERLANDS

VIA AIR MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN 15 2004

Paper No. 5

In re Application of	:	
Alan Miller	:	
Serial No. 10/199,825	:	DECISION ON PETITION
Filed: July 19, 2002	:	TO MAKE SPECIAL
For: PACKAGE FOR DISPLAYING	:	
PRODUCTS	:	

Applicant's petition, filed December 18, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Alston and Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED
APR 01 2003
Technology Center 2600

In re Application Serial No.:
10/199,847

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Jim H. Salter
Blakely Sokoloff Taylor and Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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OFFICE OF PETITIONS

In re Application of :
Tien-I Bao, et al :
Application No. 10/199,856 :
Filed: July 19, 2002 :
Attorney Docket No. TS01-1567 :

ON PETITION

This is a decision on the petition, filed August 27, 2004, which is being treated as a petition 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.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 24, 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 25, 2004.

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 $420 extension of time submitted with the petition on August 27, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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) (3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By facsimile: (703) 872-9306
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
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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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OFFICE OF PETITIONS

In re Application of :
Tien-Bao et al :
Application No. 10/199,856 :
Filed: July 19, 2002 :
Attorney Docket No. TS01-1567 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

CORRECTED DECISION

This is a decision on the petition, filed August 27, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on July 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The decision mailed November 10, 2004 is hereby vacated as of the mail date of this decision. The two months extension of time submitted with the petition on August 27, 2004 was inadvertently credited to petitioner's deposit account. Therefore, with authorization to charge, the two months extension of time fee of $420 is being charged back to petitioner's deposit account number 08-1394.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHOOK HARDY & BACON
2555 GRAND BLVD
KANSAS CITY, MO 64108

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Orris E. Albertson	:	
Application No. 10/199,868	:	ON PETITION
Filed: July 19, 2002	:	
Attorney Docket No. EVEI.97496	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 3, 2005.

The official file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

After this decision is mailed, deposit account 11-0160 will be charged a total of $1,750.00 -- $750.00 for the petition to revive an unintentionally abandoned application, $700.00 for the issue fee and $300.00 for the publication fee.

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

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BLACKWELL SANDERS PEPER MARTIN
4801 MAIN STREET, SUITE 1000
KANSAS CITY, MO 64112

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

Jack C. Munro, Agent of Record
28720 Roadside Drive, Suite 225
Agoura Hills, CA 91301

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Seidel	:	
Application No. 10/199,891	:	DECISION GRANTING
Filed: July 19, 2002	:	PETITION
For: SCROLL ADVERTISING DEVICE	:	

This is a decision on the petition filed September 5, 2002, and supplemented October 17, 2002, to establish that page 15 of the specification was part of the originally filed application.

On July 19, 2002, the application was filed.

On August 20, 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 19, 2002, and advising applicants that page 15 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 15 of the specification was deposited on July 19, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "25 Pages Specification" on July 19, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 15 of the specification.

Upon review of the record, page 15, deposited on July 19, 2002, has not been located. However, the evidence is convincing that the application papers deposited on July 19, 2002, included page 15, and that page 15 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 15 submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed August 20, 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 19, 2002, using the application papers filed on July 19, 2002, and the copy of page 15 of the specification filed on September 5, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of
Ann C. Irvine et al.
Application No. 10/199,899
Filed: July 18, 2002
Attorney Docket No. **010432**

ON PETITION

This is a decision on the July 17, 2007, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on March 29, 2007 for failure to file a timely reply to the Final Office Action sent electronically via "e-office action" on December 28, 2007. Accordingly, a Notice of Abandonment was sent electronically via "e-office action" on September 7, 2007.

The file record discloses that the Final Office Action was sent to the e-mail address of record however, petitioner contends that it was not received.

In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the transmission, there is a strong presumption that the Office action was properly sent to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record. The requirement for an argument under 37 CFR 1.181 is for proof that the office action was not received.

A review of the record discloses that an e-notification of the Final Office Action was sent on December 28, 2006 and that a courtesy postcard was sent via first class mail

on January 5, 2007 as a reminder to view the documents that were added to the Private PAIR electronic file.

While the petition includes copies of a screen shot from PAIR for the instant application and for another application which uses the same customer number, to show that the courtesy postcard was sent in one case but not the other, the U.S. Patent and Trademark Office (Office) file is the official record and the file shows that in fact the courtesy postcard was mailed on January 5, 2007.

Nonetheless, the evidence in the form of the docket records submitted to show that the postcard was not received does not substantiate the claim of non-receipt of the "e-notification" that the Final Office Action of December 22, 2006 was available in PAIR. Furthermore, petitioner is advised that the postcard mailed January 5, 2007 is a courtesy. Pursuant to the Official Gazette Notice dated January 16, 2007, the mailing of a courtesy postcard will not restart the time period for reply, and the period for reply to any outgoing office correspondence to which a reply is required will continue to be measured from the date indicated on such outgoing office correspondence. The courtesy postcard is not therefore controlling, thus, the holding of abandonment cannot be withdrawn based on the receipt or non-receipt of the postcard.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of
Ann C. Irvine et al.
Application No. 10/199,899
Filed: July 18, 2002
Attorney Docket No. **010432**

ON PETITION

This is a decision on the petition filed February 25, 2008 under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

The above-referenced application was held abandoned on March 29, 2007 for failure to file a timely reply to the Final Office Action sent electronically via "e-office action" on December 28, 2006. Accordingly, a Notice of Abandonment was sent electronically via "e-office action" on September 7, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2624 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in 37 CFR 1.17(m)

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/16/2010

Applicant	: Ann C. Irvine	: DECISION ON REQUEST FOR
Patent Number	: 7630563	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/199,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **570** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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JJGJr: 05-04

Paper No: 4

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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MAY 14 2004
OFFICE OF PETITIONS

In re Application of	:
Rubin, et.al.	:
Application No. 10/199,900	: DECISION ON PETITION
Filed: 18 July, 2002	:
Attorney Docket No.: QST-049/2396CIP	:

This is a decision on the petition, filed via 17 March, 2004, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 18 July, 2003. Thus, Petitioner failed to Notice the Office of the action timely of the foreign/international filing as required.

Thus, Petitioner alleges that he unintentionally failed to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been a matter of unintentional delay.

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 19 August, 2004, accompanies this decision.

This application is being forwarded to Publications to be processed into a patent.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of
Gonzalo Hortelano et al.
Application No. 10/199,914
Filed: July 18, 2002
Attorney Docket No. 2403.001

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 7, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 8, 2007. A Notice of Abandonment was mailed on September 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $750.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 22, 2008

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/199918 Patent No.: 7115418 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Peter Paras/ 1632

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of
Rubin et al.
Application No. 10/199,923
Filed: July 18, 2002
Attorney Docket No. QST-048/2395P

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 16, 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 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A

Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 8, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2686 for examination in due course.

Any inquiries concerning this decision may 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427

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OFFICE OF PETITIONS

In re Application of	:	
Mark F. Sylvester et al	:	
Application No. 10/199,926	:	DECISION ON PETITION
Filed: July 19, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 56953US005	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/314,905, filed August 24, 2001.

The petition is **Granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 19, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/314,905, which was filed on August 24, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/314,905 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 Karen Creasy at (703) 305-8859.

The examiner of Technology Center AU 2827 will consider the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/314,905, filed August 24, 2001.

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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OFFICE OF PETITIONS

ROBERT J. SCHAAP
STE. 188
21241 VENTURA BLVD.
WOODLAND HILLS CA 91364

In re Application of	:	
Floyd a. Kastke	:	
Application No. 10/199,941	:	DECISION GRANTING PETITION
Filed: July 19, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of August 25, 2005, 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 October 10, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1655.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022-7513

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OFFICE OF PETITIONS

In re Application of :
Corinne Antignac et al. :
Application No. 10/199,945 :
In re Patent No. 6,924,110 :
Filing Date: July 19, 2002 : DECISION ON PETITION
Issue Date: August 2, 2005 : UNDER 37 C.F.R. §3.81(B)
Attorney Docket Number: :
3754/0L671 :
Title: NPHS2 GENE INVOLVED IN :
THE STEROID-RESISTANT NEPHROTIC :
SYNDROME, PROTEIN ENCODED BY :
SAID GENE AND DIAGNOSTIC AND :
THERAPEUTIC USES :

This is a decision on the petition filed September 6, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner requests that a Certificate of Correction be issued correcting the address for an assignee. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the address of the Assignee which appears on the face of the patent should be changed.

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set

1 See Official Gazette, June 22, 2004.

forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Office records show that the assignment for the above-identified application was received in the Office on October 25, 2002, which is prior to the payment of the Issue Fee on June 22, 2005.

The petition is **GRANTED**.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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 unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: DARBY & DARBY P.C.
P.O. Box 5257
New York NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper 8

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of
Ross Miller
Application No. 10/199,947
Filed: July 18, 2002
Attorney Docket No.018563-001710US
Title of Invention: MODIFIED TOOTH POSITIONING APPLIANCES AND METHODS AND SYSTEMS FOR THEIR MANUFACTURE

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 23, 2004, to revive the above-identified application.

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 29, 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 30, 2002. A Notice of Abandonment was mailed on December 30, 2003.

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 $770 basic filing fee and the $130 surcharge for late filing of a fee or 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 (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 05-03

Paper No. 5

MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-4108

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OFFICE OF PETITIONS

In re Application of Anderson, Balwalli, Benson, Bond, Brown, Cai, Da Silva, Edwards, Figureiredo, Fiorentino, Haettich, Heller, Kaviani, Lewandowski, McLaughlin, Mudd, Mukherjee, Myles, Naskov, Phillips, Savrda, and Wilson Application No. 10/199,950 Filed: 19 July, 2002 Attorney Docket No. 034083-9075	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 24 February, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventors, Portia Brown and Dominic da Silva, have refused to join in the filing of the

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

above-identified application after having been sent a copy of the application papers. Specifically, the statement of petitioners' registered patent attorney, Gerald R. Fellows, establishes that a copy of the application was sent to the non-signing inventors. The inventors, however, have failed to sign and return the declaration naming them as joint inventors.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

As the petition states that "[t]his statement is being made by the available person having first hand knowledge of the facts recited" the Office is construing the petition to mean that the signer has first-hand knowledge that the application papers were sent to the non-signing inventors. Petitioners must inform the Office if this is an incorrect interpretation.

It is noted that the declaration filed with the original application papers on 24 February, 2003, is defective in that it contains non initialed and/or non-dated alterations.[2] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted when required by the examiner.

The application is being 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See 37 CFR 1.52(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 05-03

Dominic da Silva
1977 River Park Boulevard
Orlando, FL 32817

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MAY 06 2003
OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 10/199,950
Filed: 19 July, 2002
For: ELECTRONIC ITEM MANAGEMENT AND ARCHIVAL SYSTEM AND METHOD OF OPERATING THE SAME

Dear Mr. da Silva:

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).

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-4108

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

Scott C. Harris
FISH & RICHARDSON, PC
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

MAILED

JUL 15 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:	:	
Richard H. Tsai	:	
Application No. 10/199,955	:	DECISION ON REQUEST TO
Filed: July 19, 2002	:	WITHDRAW FROM RECORD
Docket No. 08305/104001	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 03, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Scott C. Harris on behalf of himself and all the attorneys of record. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to, Tom D'Amico, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington, DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
101 WEST BROADWAY
SUITE 900
SAN DIEGO, CA 92101-8285

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OFFICE OF PETITIONS

In re Application of	:	
FANG, et al.	:	
Application No. 10/199,957	:	DECISION ON PETITION
Filed: July 19, 2002	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 31, 2006.

The request is **APPROVED**.

A review of the file record indicates that DUANE MORRIS LLP 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, DUANE MORRIS LLP has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

Applicant is reminded that there is no attorney of record at this time.

A Review of the file discloses that a final Office action was mailed on August 29, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of August 29, 2006 has been received.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **PERLAN THERAPEUTICS, INC.**
6310 NANCY RIDGE DRIVE
SUITE 102
SAN DIEGO, CA 92121

cc: **ROBERT M. JAFFE**
4370 LA JOLLA VILLAGE DRIVE
SUITE 1040
SAN DIEGO, CA 92122

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019

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Technology Center 2100

In re Application of:
Christopher Todd INGERSOLL, et al.
Application No. 10/199,963
Filed: July 19. 2002
For: REGISTRY DRIVEN INTEROPERABILITY AND EXCHANGE OF DOCUMENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 5, 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
571-272-3613

cc: Paul Warenski, Esq.
General Counsel
Commerce One Operations, Inc.
580 California Street, Suite 526
San Francisco, CA 94104

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 8/27/07

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7088360

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

PHU K. NGUYEN
PRIMARY EXAMINER
GROUP 2300

2628

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Christopher L. Holt
WESTMAN, CHAMPLIN & KELLY, P.A.
Suite 1400 – International Centre
900 Second Avenue South
Minneapolis MN 55402-3319

MAILED

FEB 15 2007

Technology Center 2100

In re Application of:	)	
Steven P. ANONSEN	)	**DECISION ON PETITION TO**
Application No. 10/199,976	)	**WITHDRAW RESTRICTION**
Filed: July 20, 2002	)	**REQUIREMENT UNDER 37 CFR**
For: CONTAINMENT HIERARCHY IN A DATABASE SYSTEM	)	**§1.144**

This is a decision on the petition filed 17 February 2006 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **DISMISSED AS MOOT**.

A review of the application indicates that the examiner of record has withdrawn the final restriction requirement mailed on 17 November 2005. See the Office Action mailed on 07 June 2006.

The application is being forward to the Office of Publication to review the corrected drawings submitted on 01 February 2007.

Vincent N. Trans, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Patton Boggs LLP
8484 Westpark Drive
Suite 900
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Mark A. Kay et al.	:	
Application No. 10/200,002	:	DECISION ON PETITION
Filed: July 19, 2002	:	TO WITHDRAW
Attorney Docket No. STAN-180	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 22, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***transferred to the firm below***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Judy Mohr, Perkins Cole LLP**
101 Jefferson Drive
Menlo Park, CA 94025

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JJGJr: 06-05

Paper No: __

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OFFICE OF PETITIONS

GROSSMAN, TUCKER,
PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

In re Application of	:	
Liu, et al.	:	
Application No. 10/200,006	:	NOTICE
Filed: 19 July, 2002	:	
Attorney Docket No. 02 MICRO 02.02	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 22 July, 2004.

The Office regrets the delay in addressing this matter.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 C.F.R. §1.28 hereby is **ACCEPTED**

This file is released to Publications for further processing as necessary.

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE, SUITE 200
LAKEWOOD CO 80226

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OFFICE OF PETITIONS

In re Application of	:	
TREADWELL	:	
Application No. 10/200,014	:	DECISION ON PETITION
Filed: July 18, 2002	:	TO WITHDRAW
Attorney Docket No. 1821	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with customer No. 24264. All attorneys/agents associated with the Customer Number 24264 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a **chain of title from the original owner to the assignee** is recorded in the assignment records of the Office (*e.g.*, **reel and frame number**). The 37 CFR Statement filed on October 28, 2002 does not include one of the above two options.

There is an outstanding Office action mailed March 10, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **William Scott Treadwell**
100 Luna Park Drive, #159
Alexandria, VA 22305

cc: **Sytex, Inc.**
c/o Barbara Loscalzo
Vice President and General Counsel
Lockheed Martin Information & Technology Services
2339 Route 70 West
Cherry Hill, NJ 08002

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NOV 16 2004

Paper No. 7

In re Application of	:	
Stan G. Hockerson *et al*	:	
Application No. 10/200,019	:	DECISION ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. EDU.022	:	

This is a decision on the petition filed on June 7, 2004 by which petitioners request withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated October 29, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a proper and timely reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply. The reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated November 17, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

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 papers that are attached to the petition. The date to which the reply is entitled is November 17, 2003. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross

E. Rollins-Cross, Director
Technology Center 3700

Law Offices of Richard E. Backus
The Monadnock Building
685 Market Street
Suite 490
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

PDF SOLUTIONS c/o MOFO SF
425 MARKET STREET
SAN FRANCISCO CA 94105

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OFFICE OF PETITIONS

In re Application of	:	
Brian E. Stine et al.	:	DECISION ON PETITION
Application No. 10/200,045	:	UNDER 37 C.F.R. §1.28(c)
Patent No. 6,901,564	:	
Filed: July 18, 2002	:	
Issue Date: May 31, 2005	:	
Title: SYSTEM AND METHOD FOR	:	
PRODUCT YIELD PREDICTION	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR §1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

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).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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HOGAN & HARTSON
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Satoshi Komoto :
Application No. 10/200,048 :
Filed: July 18, 2002 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.313(c), filed May 19, 2005, 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 December 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and IDS.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450

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Date : May 20, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Satoshi Komoto
Application No. : 10/200,048
Filed : July 18, 2002

The above-identified application has been assigned Patent No. 6,901,098 and an issue date of May 31, 2005.

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 May 31, 2005:

"All reference to Patent No. 6,901,098 to Satoshi Komoto of Tokyo, JAPAN for SEMICONDUCTOR LASER DEVICE INCLUDING LIGHT RECEIVING ELEMENT FOR RECEIVING MONITORING LASER BEAM appearing in the Official Gazette of May 31, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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JUN 09 2008

In re Application of	:	
ZHOU, Siliang	:	
Application No. 10/200,058	:	DECISION ON PETITION
Filed: July 18, 2002	:	TO WITHDRAW
Attorney Docket No. **RELA-001/01US 307057-2006**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Suman Mirmira on behalf of all attorneys of record who are associated with customer No. 58249. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed April 09, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SILIANG ZHOU**
2711 MARKHAM COURT
HAYWARD, CA 94542

cc: **GLOBAL PATENT GROUP - RLA**
MR. DENNIS A. BENNETT
GLOBAL PATENT GROUP, LLC
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS, MO 63138

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
ONE MARKET, SPEAR STREET TOWER, STE 2800
SAN FRANCISCO, CA 94105

In re Application of	:	
Siliang Zhou	:	
Application No. 10/200,058	:	DECISION ON PETITION
Filed: July 18, 2002	:	TO WITHDRAW
Attorney Docket No. RLA0001-201-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to MORGAN LEWIS & BOCKIUS LLP has been revoked by the assignee of the patent application on July 17, 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: GLOBAL PATENT GROUP - RLA
MR. DENNIS A. BENNETT
GLOBAL PATENT GROUP, LLC
10411 Clayton Road, Suite 304
ST. LOUIS MO 63138

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JEFFREY C. HOOD
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767

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OFFICE OF PETITIONS

In re Application of :
Sundeep Chandhoke, et al. :
Application No. 10/200,091 :
Filed: July 19, 2002 :
Attorney Docket No. 5150-58500 :

ON PETITION

This is a decision on the petition, filed January 24, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application became abandoned for failure to reply in a timely manner to the final Office action mailed April 19, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 20, 2007.

Petitioner asserts that the non-final Office action mailed April 19, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action on April 19, 2007, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The evidence presented by applicant is insufficient to withdraw the holding of abandonment since the petition has failed to comply with requirement (3) above. While petitioner must submit a copy of the docket record where the non-received Office communication would have been entered and docketed had it been received, the docket record submitted appears to be incomplete. For example, it is noted that the docket record submitted purportedly shows the due dates required for response in the application. However, while there was a response filed on January 30, 2007 to the non-final Office action mailed November 1, 2006, there is no entry for this response. It is further noted that there are no entries for the receipt of any of the Office communications. Therefore, the docket record presented cannot be relied on to show that all USPTO communications were **entered *and* docketed** when received.

Absent the required evidence to establish nonreceipt of the Office action of April 19, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 petition fee, as well as the required reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It is noted that the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

NOV 1 0 2005

In re Application of:
Jorgenson et al.
Serial No.: 10/200,237
Filed: July 22, 2002
Attorney Docket No.: **2867-097**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed November 15, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on October 27, 2003 and the Supplemental Notice of Allowance and Issue Fee Due (Supplemental Notice of Allowance) mailed on May 19, 2004. A Notice of Abandonment was mailed on August 25, 2004.

Petitioner asserts that neither the Notice of Allowance mailed on October 27, 2003 or the Supplemental Notice of Allowance mailed on May 19, 2004 were received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that neither Notice of Allowance was received. Copies of the docket records where the Notice of Allowance and the Supplemental Notice of Allowance would have been entered were also included.

A review of the written record indicates that a Change of Address was inexplicably entered in the application on October 11, 2003 in the name of Oblon, Spivak, McClelland, Maier & Neustadt, P.C. 1940 Duke Street, Alexandria VA 22314. The Office regrets the error. Petitioner's Change of Address filed October 19, 2004 has been received and entered, thus correcting the error.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory periods for response set therein will be reset to run from the date the Notices are re-mailed.

Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

IMMUNEX CORPORATION
LAW DEPARTMENT
51 UNIVERSITY STREET
SEATTLE, WA 98101

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of
Richard J. Armitage et al
Application No. 10/200,242
Filed: July 19, 2002
Attorney Docket No. 2802-N

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 May 6, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on July 19, 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).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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 (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1644 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Gregory P. LaPointe
Bachman & LaPointe, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

Mail Date: 07/26/2010

Applicant	: Carlos Gustavo Dassori	: DECISION ON REQUEST FOR
Patent Number	: 7648685	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/200,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NOV 2 4 2003

OFFICE OF PETITIONS

Michael G. Crilly, Esquire
104 South York Road
Hatboro, PA 19040

In re Application of

Sioutis, et al.

Application No. 10/200,272

Filed: July 22, 2002

Attorney Docket No. **NS-2002-01-NP**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10 filed, October 8, 2003.

The petition is **dismissed as moot.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to have recognized a document titled "Request for Withdrawal of Attorney" filed December 30, 2002. Although there is no indication that the "Request for Withdrawal of Attorney" has ever been entertained, the document as filed on December 30, 2002, has been made a part of application file and accorded a filing date. Accordingly, there is not any relief that can be provided by the instant petition filed under 37 CFR 1.10; the petition is, therefore, dismissed as moot.

A request for withdrawal of attorney is not entertained in the Office Petitions, but is treated in the technology centers. The subject application is assigned to Technology Center 1700. Petitioner should contact the examiner assigned to this application to determine how to expedite treatment of the request for withdrawal of attorney. The examiner for this application is Reginald Alexander and can be reached (703)308-1594 and after December 9, 2003, at (571)-272-1395.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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FEB 1 0 2006

OFFICE OF PETITIONS

In re Application of
Masatoshi Ishikawa, et al.
Application No. 10/200,332
Filed: July 23, 2002
Attorney Docket No.: 01165.0873

ON PETITION

This is a decision on the petition, filed February 9, 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 November 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2878 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).

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,102,225 B2

DATED: September 5, 2006

INVENTOR(S): ZHAO *et al.*

It is certified that error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column (75), Brent Bacher should be removed from the list of inventors;

In column (56), in the U.S. Patent Documents section, the following patents should be added: 6,011,694; 5,541,450; 6,545,351; 6,583,516; 6,563,712; and

In column (56), in the Foreign Patent Documents section, "JP 81-49446" should be replaced with -- JP 61-49446--.

Approved.

/Nitin Parekh/

03/04/2008

MAILING ADDRESS OF SENDER (Please do not use customer number below):
1100 New York Avenue, NW
Washington DC 20005-3934
Atty. Dkt. No. 1875.0200007

This collection of information is required by 37 CFR 1.322, 1.323 and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 3 2004

NANCY A. BIRD
231 WALTON AVENUE
SO. ORANGE NJ 07079

In re Application of	:
James Ralph et al	:
Serial No.: 10/200,355	: PETITION TO MAKE SPECIAL
Filed: February 25, 2003	:
Attorney Docket No.: JR1	:

This is in response to applicants' petition filed May 10, 2004, 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 not satisfied the provisions set forth in M.P.E.P. 708.02, IV. No evidence or verified statement of one or more applicant's being over 65 years of age has been provided. Therefor the petition is **DISMISSED**. Reconsideration of this decision may be had by providing the required evidence or statement.

The application will be acted on in turn.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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BEUSSE, BROWNLEE, WOLTER, MORA & MAIRE, P.A.
390 NORTH ORANGE AVENUE, SUITE 2500
ORLANDO, FL 32801

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Kemal Burkay :
Application No. 11/200,365 :
Filed: August 9, 2005 :
Attorney Docket No. 10834-001 :
:

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed August 9, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

Applicant presents reasons for making the application special, as required with respect to materially enhancing the quality of the environment by contributing to the maintenance of basic life-sustaining natural elements, namely air quality. Applicant, Kemal Burkay, specifically states the "present invention is for a system and method for effectively eliminating all impurities from an exhaust air stream[.]" This statement alone is insufficient to explain how the materiality standard is being met. Applicant's declaration with respect thereto have been carefully considered, but are not persuasive with respect to limiting the claims to an invention that materially enhances the quality of the environment.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3744 for action in its regular turn.

Irvin Dingle for

Amelia Au
Petitions Examiner
Office of Petitions

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Meir Ketter
14 Nahal Kane
Kfar-Saba 44245
Israel

In re Application of
David Bar-on, Meir Ketter, and David Kramer
Application No.10/200,395
Filed: July 22, 2002
Attorney Docket Number: CM00930S
Title of Invention: SYSTEM, METHOD AND TRANSCEIVER FOR MOBILE COMMUNICATIONS

Letter

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MAY 1 4 2003

OFFICE OF PETITIONS

Dear Mr. Ketter:

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

Valerie M. Davis
MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 14 2003

OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of
David Bar-on, Meir Ketter, and David Kramer
Application No.10/200,395
Filed: July 22, 2002
Attorney Docket Number: CM00930S
Title of Invention: SYSTEM, METHOD AND TRANSCEIVER FOR MOBILE COMMUNICATIONS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 21, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts attest a copy of the application was sent to non-signing inventor's last known address via DHL on two separate occasions. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Pursuant to petitioner's request the $130.00 petition fee has been charged to deposit account 50-2117.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
NAKAJIMA, Toshihiro	:	
Application No. 10/200,407	:	DECISION GRANTING PETITION
Filed: July 23, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **T2171.0203/0US0**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 10, 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 April 1, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Patent of	:	
Suyama et al.	:	
Patent No. 6,742,905	:	
Issued: June 1, 2004	:	ON PETITION
For: REARVIEW MIRROR	:	

This is a decision on the Petition, filed January 21, 2005, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent.

The Petition is **granted**.

Applicant is advised that the fee for a petition under 37 CFR 1.183 has increased effective December 8, 2004, to $400.00. Accordingly, Applicant's deposit account has been charged an additional $270.00 as authorized in the instant petition.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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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E. I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

In re Application of	:
Frederick Hicks et al	:
Serial No.: 10/200,431	: PETITION DECISION
Filed: July 22, 2002	:
Attorney Docket No.: CL1537	:

This is in response to the petition under 37 CFR 1.144, filed December 3, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims 12-22, claims 1-11 having been canceled by preliminary amendment. In a first Office action, mailed October 3, 2003, the first examiner set forth a restriction requirement, as follows:

> Group I – Claims 12-15, drawn to nickel complexes;
> Group II – Claim 16-22, drawn to substituted tropenes and methods of making

The examiner indicated that Group I and Group II were related as mutually exclusive species in an intermediate/final product relationship. The examiner reasoned that the intermediate could be used in other ways than to make the final product and was thus a distinct invention. Claims 12, 17 and 18 were further identified as generic to a plurality of distinct species and the examiner required an election of species within the group elected.

Applicants replied on October 31, 2003, electing Group II and canceling the claims of Group I. The species of Example 23 was also elected for further prosecution.

The application was transferred to a new examiner in a different Technology Center who mailed a new further restriction requirement to applicants on December 30, 2003. The examiner further divided the elected claims as follows:

Group I, claim 16, drawn to a process of making a compound;
Group II, claim 17, drawn to compound of Formula X; and
Group III, claims 18-22, drawn to compounds of Formula I.

The examiner further required an election of species within whichever group was elected. The examiner stated that upon election of a species the examiner would determine the scope of the independent invention and that compounds outside this scope would be required to be canceled.

Applicants replied on January 15, 2004, by canceling claims 16-22 and adding claims 23-26 directed to nickel complexes, reaffirming the election of the species of Example 23.

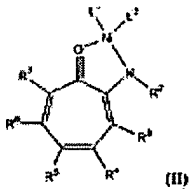
The application was assigned to a third examiner who mailed a first Office action on the merits to applicants on April 19, 2004. Based on the elected species, the examiner limited the scope of the invention to compounds where R^2 is represented by Formula VI, R^3-R^7 and R^{11}-R^{15} are hydrogen, hydrocarbyl or substituted hydrocarbyl or any two R's vicinal to each other form a ring and L^1 is triphenylphosphine and L^2 is phenyl. The examiner then withdrew any other compounds not encompassed within the defined scope as non-elected and objected to the claims as containing non-elected subject matter which needed to be canceled. No prior art was applied.

Applicants replied on July 22, 2004, maintaining the claims as previously presented. Applicants vigorously traversed the examiner's objections maintaining that all compounds fell within the scope of the independent invention (genus). Applicants noted that since the examiner was asserting the claim to be a Markush type claim, the guidelines in M.P.E.P. 803.02 should be followed. The examiner mailed a Final Office action to applicants on October 1, 2004, maintaining the same position and holding applicants' arguments unpersuasive.

Applicants filed this petition on December 3, 2004. Applicants concurrently filed a reply to the Office action to which the examiner issued an Advisory Action on January 3, 2005, maintaining the same position.

DISCUSSION

This petition is directed to the examiner's treatment of a Markush claim setting forth a genus of compounds and whether restriction within the Markush group is proper. Claim 23 shows structure II and defines the variables.



(II)

The examiner has limited R^2 to the formula shown in dependent claim 24, a substituted phenyl ring. The examiner has limited the other R groups to three possibilities, hydrogen, hydrocarbyl or substituted hydrocarbyl (eliminating functional group as a possibility). The examiner has limited the L groups to specific ligands. The examiner has based the limitations on classification of the structures in different classes thus imposing an extra search burden on the examiner. The examiner has relied on some court decisions as support for the position taken.

Applicants have based their arguments for traversal and withdrawal of the examiner's action on guidance from M.P.E.P. 803.02 and 809.02 and on different court decisions. M.P.E.P. 809.02 states that where a genus claim which links a number of species together exists and where the species are considered to be independent and distinct from each other, the examiner may require an election of a single species for purposes of beginning examination. In conjunction with M.P.E.P. 803.02, the single species elected is examined, and if free of the prior art is further examined for compliance with all other applicable statutes. Upon allowance of the single species, the examiner is required to expand the search and examination to a reasonable number of additional species and determine their patentability in the same manner. If all species considered by the examiner are found to be free of the prior art, the genus is considered to be be free of the prior art also. If, however, one or more species is found to be taught by the prior art, then that species and the genus are to be rejected appropriately. Here, no prior art has been asserted against the elected species or additional species within the scope of invention to which the examiner wishes to limit applicants' claims. However, it is not within the examiner's prerogative to determine applicants' invention or claim scope. That determination lies with applicants and applicants may claim as broadly as the prior art permits. (See *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978).)

Additionally, the concept of a Markush group and its divisibility into separate and distinct inventions is not apparent here. A Markush Group is proper where the group contains a structure common to all compounds and is essential to the claimed utility of the compounds. Here the common structure is a fused seven member and five member unsaturated ring structure having Ni as one of the five membered ring atoms and having two ligands attached to it. All positions can be substituted with a limited number of substituents. The genus encompassed by the defined variables is not extremely large. The ring structure, especially the Ni portion, provides the functionality of the compounds. Thus the criteria for a proper Markush group are here met and no restriction between compounds can or should be made. An election of species would be proper with the guidelines of M.P.E.P. 803.02 and 809.02 then being followed.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for further action not inconsistent with this decision. If no applicable prior art relating to the examined or any other encompassed species, the genus will be considered free of the prior art and will be examined for compliance with all other applicable statutes. In view of this decision the Advisory Action mailed January 3, 2005, is withdrawn.

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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Alexandria, VA 22313-1450
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wk

Mailed: 9/21/05

In re application of	:	
Michael P. Diebold et al.	:	DECISION ON
Serial No. 10/200,432	:	PETITION
Filed: July 22, 2002	:	
For: Method For Conditioning Titanium Dioxide Pigments	:	

This is a decision on the petition filed on November 10, 2003. The petition requests to reset and remail the Office Action of June 25, 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 Office Action mailed June 25, 2003. The evidence provided includes a statement by the petitioner that the Office letter mailed June 25, 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 Office letter mailed June 25, 2003 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed June 25, 2003 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 remaining of the Office Action originally mailed June 25, 2003 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven C. Benjamin
E I Du Pont De Nemours and Company
Legal Patent Records Center
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

SPE! D. Wu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/30/06

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/209452 Patent No.: 6841606

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: _____

D. Wu — **SPE**

1713 — **Art Unit**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/200,514	07/23/2002	Hisanori Okamura	H6810.0047/P047	3439

24998 7590 03/11/2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

EXAMINER
STONER, KILEY SHAWN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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MAR 1 1 2005

In re Application of	:	
Hisanori Okamura et. al.	:	WITHDRAWAL
Serial No. 10/200,514	:	FROM ISSUE
Filed: July 23, 2002	:	UNDER 37 CFR 1.313(b)
For: FRICTION STIR WELDING METHOD AND	:	
COMPONENT PART WELDED BY THE METHOD:		

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to at Tom Dunn (571) 272-1171.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L. Street NW
Washington, DC 20037-1526

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DW 10-03

Paper No. 4

DAVID HEROLD
10362 WOODBURN DR.
POWELL OH 43065

COPY MAILED
OCT 2 8 2003
OFFICE OF PETITIONS

In re Application of	:	
Lawrence Hardy Mitchell	:	
Application No. 10/200,531	:	ON PETITION
Filed: 22 July, 2002	:	
For: Commutation Converter for a	:	
Brushless Servo Motor	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 29 September, 2003, 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 17 October, 2002, for failure to timely file a substitute specification in compliance with 37 CFR 1.52 as required by the Notice to File Corrected Application Papers mailed on 16 August, 2002, which set a two (2) month period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of notice of abandonment.

Receipt of the substitute specification is acknowledged.

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 (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/200,540	07/22/2002	Colin Bill	01-35

CONFIRMATION NO. 5241

OC000000011427295

22443
LAW OFFICE OF MONICA H CHOI
P O BOX 3424
DUBLIN, OH 430160204

Date Mailed: 12/05/2003

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/11/2004.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Paper No. 6

LAW OFFICE OF MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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DEC 05 2003
OFFICE OF PETITIONS

In re Application of
Bill, et al.
Application No. 10/200,540
Filed: July 22, 2002
Attorney Docket No. 01-35

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 24, 2003 (Certificate of Mailing dated November 20, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on June 10, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of March 11, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2133, for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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MAR 08 2007

Technology Center 2100

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JEFFREY C. HOOD
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL PC: NOTICE OF WITHDRAWAL
P.O. BOX 398 :
AUSTIN, TX 78767-0398 :
: FROM ISSUE
: UNDER 37 CFR 1.313(b)

In re Application of
Jason King
Application No. 10/200,560
Filed: July 22, 2002
Attorney Docket No.: 5150-67100
For: DISABLING AND CONDITIONALLY COMPILING GRAPHICAL CODE IN A GRAPHICAL PROGRAM

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Wendy Garber 571-272-1400.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Wendy Garber
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/200,593	07/23/2002	Hideki Fujiwara	925-239	9100

7590 03/02/2005

NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201

EXAMINER
JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201

In re Application of	: DECISION ON REQUEST
Hideki Fujiwara et al	: UNDER 37 CFR 1.97
Application No. 10/200,593	: FOR CONSIDERATION
Filed: July 23, 2002	: OF INFORMATION
For: DRIVING FORCE TRANSMISSION	: DISCLOSURE STATEMENT
APPARATUS	: AFTER ALLOWANCE

The request under 37 CFR 1.97(d)(2) for consideration of an information disclosure statement filed on July 15, 2004 after allowance has been:

( ) GRANTED.

(X) DENIED.

The request lacks:

(X) The required fee under 37 CFR 1.97(d)(3) and 1.17(I)(1).

(X) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2).

The information disclosure statement has been placed of record in the file and will not be considered by the examiner. (see Federal Register 65 *Fed. Reg.* 54603 (September 8, 2000); Official Gazette 1238 *Off. Gaz. Pat Office* 77 (September 19, 2000) for rule changes to 37 CFR 1.97).

David A. Bucci, SPE
Art Unit 3682
(703) 308-3668

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Commissioner for Patents
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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of
Caplan et al.
Application No. 10/200,607
Filed: July 22, 2002
Attorney Docket No.: 2002834-0194

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2007, 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** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of November16, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 17, 2007. This decision precedes the mailing of a Notice of Abandonment.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition is improperly executed, the signature requires a second single forward slash. The electronic signature must consist only of letters of the English alphabet, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation. The person signing the correspondence must personally insert the electronic signature with a first single forward slash mark before, and a second single forward slash mark after, the electronic signature (e.g., /Dr. James T. Jones, Jr. /).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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NOV 20 2007
OFFICE OF PETITIONS

In re Application of
Caplan et al.
Application No. 10/200.607
Filed: July 22, 2002
Attorney Docket Number: 2006517-0057
Title: Conductance of Improperly Folded Proteins Through The Secretary Pathway and Related Methods for Treating Disease

DECISION ON PETITION

This is a decision on renewed petition under 37 CFR 1.137(b), filed October 16, 2007 to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on November 16, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 17, 2007. A Notice of Abandonment was mailed on September 17, 2007. A petition was dismissed on August 20, 2007.

This petition is hereby **Granted**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a continuation application ; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies

from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

An untimely petition for three (3) month extension of time was filed on July 10, 2007. However, pursuant to 37 CFR 1.136, an extension of time 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) Petitioner's six (6) month statutory period expired on May 16, 2007. Petitioner is ineligible for any extensions of time.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

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
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WASHINGTON, D.C. 20231
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Paper No. 8

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Broliden et al.	:	
Application No. 10/200,616	:	DECISION GRANTING
Filed: July 19, 2002	:	PETITION
Attorney Docket No. KBROL.001C1	:	

This is a decision on the petition filed September 10, 2002, to accord the above-identified application a filing date of July 19, 2002.

On July 19, 2002, the application was deposited.

On August 15, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the petitioner notes that the content of the parent application was incorporated by reference. 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 drawings were present in the Office on 10/200,616, albeit in the file of another application, i.e., application No. 09/447,693. Therefore, on petition, the application may be accorded the requested filing date of July 19, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 19, 2002, using the application papers filed on July 19, 2002, and the copy of the drawings filed on September 10, 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 6,927,279	:	
Issue Date: August 9, 2005	:	
Application No. 10/200,659	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. 35721/250020	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 16, 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 10, 2009 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 concerning this decision should be directed to the undersigned at (571) 272-3208.

This file is being referred to Files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

OIPE SEP 16 2009 PATENT & TRADEMARK OFFICE

09-17-09

2009 SEP 22 PM 4:27

1F QAC (M)

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
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)
AU#98-006

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

RECEIVED
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NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,927,279 Application Number 10/200,659

Issue Date 08/09/2005 Filing Date 07/22/2002

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

09/25/2009 DALLEN 00000040 6927279
01 FC:1599 2130.00 OP

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

12/08/2009 LDIEP1 00000002 10200659
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

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 1.89(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 main 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.

09/15/2009
Date

Misty W. Brown
Signature

Misty W. Brown
Typed or Printed Name of Person Signing Certificate

Adjustment date: 12/08/2009 LDIEP1
09/25/2009 DALLEN 00000040 6927279
01 FC:1599 -2130.00 OP

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, Virginia 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, Virginia 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

1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490.00	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1,640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $ _____

☑ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

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

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____.

OR

☐ Send refund check

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.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

A.J. Gok — Signature(s) of Petitioner(s)

09/14/2009 — Date

A.J. Gokcek — Typed or printed name(s)

57602 — Registration Number, if applicable

334-844-4977 — Telephone Number

Office of Technology Transfer, 570 Devall Drive, Suite 102, Auburn, AL 36832 — Address

_____ — Address

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."

ENCLOSURES

☑ Maintenance Fee Payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

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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BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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AUG 10 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Taber H. Smith et al :
Application No. 10/200,660 :
Filed: July 22, 2002 :
Attorney Docket No. 13989-007001

This is a decision on the petition filed August 9, 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 April 19, 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 2125 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
www.uspto.gov

KING & JOVANOVIC PLC
170 COLLEGE AVENUE, SUITE 230
HOLLAND, MI 49423

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
William M. Yarbrough	:	
Application No. 10/200,691	:	DECISION GRANTING PETITION
Filed: July 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ZANO3112P1	:	

This is a decision on the petition, filed September 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed "Amendment and Communication."

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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MAY 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Henry, Raymond C.	:	
Application No. 10/200,733	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. U01-0060.006	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 29, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 101904

OCT 26 2004

Intellectual Property Department
LaserComm, Inc.
2600 Technology Drive - Suite 900
Plano, TX 75074

In re Application of:	:	
DANZIGER *et al.*	:	
Serial No.: 10/200,742	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 24, 2002	:	FROM RECORD
Attorney Docket No.: **LCP-018**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 22, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. Simon Kahn signed the request, on behalf of himself. It is noted that the application is now abandoned.

The request is **APPROVED**.

Edward Langer remains of record at this time.

The correspondence address has been changed to the address of the Assignee. All future communications from the Office will be directed to Lasercomm, Inc., at the above address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Cc: Simon Kahn
P.O. Box 34598
Jerusalem, Israel 91035 AIRMAIL

UNITED STATES 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. 101904

OCT 26 2004

Intellectual Property Department
LaserComm, Inc.
2600 Technology Drive - Suite 900
Plano, TX 75074

In re Application of:	:	
DANZIGER *et al.*	:	
Serial No.: 10/200,742	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 24, 2002	:	FROM RECORD
Attorney Docket No.: **LCP-018**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 22, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. Simon Kahn signed the request, on behalf of himself. It is noted that the application is now abandoned.

The request is **APPROVED**.

Edward Langer remains of record at this time.

The correspondence address has been changed to the address of the Assignee. All future communications from the Office will be directed to Lasercomm, Inc., at the above address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Cc: Simon Kahn
P.O. Box 34598
Jerusalem, Israel 91035 AIRMAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/200,747	07/24/2002	Arnold Gregory Klein		2731

30996 7590 01/29/2008
ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS, NM 87059-7507

EXAMINER
COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
01/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

OIPE IAP83
JUL 3 0 2007
PATENT & TRADEMARK OFFICE

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. 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	10/210,747
Filing Date	July 2, 2002
First Named Inventor	Arnold Klein
Art Unit	1723
Examiner Name	Charles E. Cooley
Attorney Docket Number	

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

1-29-08
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

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 [ ]

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:
Applicant has decided to represent himself.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	ARNOLD G. KLEIN				
Address	P.O. BOX 724				
City	SANDIA PARK	State	NM	Zip	87047
Country	USA				
Telephone	505 281-7090	Email			
Signature	Robert W. Becker				
Name	Robert W. Becker	Registration No.	26,255		
Date	July 9, 2007	Telephone No.	505 286 3511		

NOTE: Withdrawal is effective upon approved notice from when received. Unless there are at least 30 days between approval or notice 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 1.11 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2007

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No. 10/200759 patent No.: 7088382

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: See Attached

Judy Nguyen

JUDY NGUYEN

SUPERVISORY PATENT EXAMINER

SPE

2854

Art Unit

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,088,382

DATED : August 8, 2006

INVENTOR(S) : Hyung-su KIM

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Approved

First Page, Column 2 (Abstract), Line 16, change "surfaces" to --surface.--

Column 9, Line 5, after " $1 < \left|\frac{D2}{D1}\right| < 10$ " insert --.--.

disapproved

Column 9, Line 31, change "of reflection mirror" to --of the reflection mirrors--

Column 9, Line 56, change "of reflection mirror" to --of the reflection mirrors--

change scope of the claims

Column 10, Line 39, after " $1 < \left|\frac{D2}{D1}\right| < 10$ " insert --.-- putting a period after a comma does not make sense

Column 13, Line 59, after " $1 < \left|\frac{D2}{D1}\right| < 10$ " insert --.-- There is no column 13

Judy Nguyen

JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,088,382

No. of add'l copies
@ 304 per page

MAR - 6 2007

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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543

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APR 28 2008
OFFICE OF PETITIONS

In re Application of	:	
Alex HOLTZ et al.	:	
Application No. 10/200,776	:	DECISION ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. **PU040186 DIV1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 September 07, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 2179 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.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sep. 1, 2006

TO SPE OF : ART UNIT 2125 **(S.P.E. Gandhi, Jayprak or S.P.E. Leo Picard)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/200782 Patent No.: 7024266

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**.

STM STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — **Specify below** which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: do not make the requested change to the cover page, because the cited foreign document was considered and cited (see PTO-892, dated 1/4/05). Other requested changes are approved, see attachment.

MM Von Geldern — **SPE**

2125 — **Art Unit**

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,024,266 B2

DATED : April 4, 2006

INVENTOR(S): Ryo EDO

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:

In item "(56) **References Cited**," under "FOREIGN PATENT DOCUMENTS," please delete -- JP 7-142408 6/1995 --. do NOT enter MMB

IN THE DRAWINGS:

On "**Sheet 14 of 14**," in "FIG. 14," in the box labeled "STEP 14", "IMPLANTION" should read -- IMPLANTATION--.

OK MMB

COLUMN 7:

Line 8, "with" should read -- which --.

OK MMB

MAILING ADDRESS OF SENDER:

PATENT NO. 7,024,266 B2

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

No. of add'l. copies @ 30¢ per page

FORM PTO 1050 (REV. 3.82)

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,799,332	2004-10-05	10/200,784	2002-07-23	1-15735

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William J. Clemens/	Date (YYYY-MM-DD)	2009-10-27
Name	William J. Clemens	Registration Number	26855

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6799332
Issue Date: October 5,2004
Application No. 10200784
Filed: July 23,2002
Attorney Docket No. 15735 US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 02-05

Paper No: __

JAMES C. SCHELLER, JR.
BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of
Bornstein, et al. :
Application No. 10/200,806 :
Filing Date: 22 July, 2002
Attorney Docket No. 004860.P1773C2 :

This is a decision on the petition filed on 24 January, 2005, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (Substitute Drawings) mailed on 30 August, 2002, with reply due absent extension of time on or before 30 October, 2002;
- the Application went abandoned after midnight 30 October, 2002;
- the Office mailed a Notice of Abandonment on 12 February, 2004;
- the instant petition was filed with fee, reply, and a statement of unintentional delay, however, in light of the delay between the date of abandonment and the filing of the instant petition–*i.e.*, nearly 27 months–and the nearly 12 months delay between the Notice of Abandonment and the filing of the instant petition, Petitioner is requested to make a more detailed showing as to the events which constituted the unintentional delay herein.

Thus, as of this writing, Petitioner has not satisfied the "showing" requirement of the regulation.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has failed to satisfy the "showing" requirement of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed**.

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: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-05

Paper No: __

JAMES C. SCHELLER, JR.
BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Bornstein, et al. :
Application No. 10/200,806 :
Filing Date: 22 July, 2002
Attorney Docket No. 004860.P1773C2 :

This is a decision on the petition filed on 28 March, 2005, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (Substitute Drawings) mailed on 30 August, 2002, with reply due absent extension of time on or before 30 October, 2002;
- the Application went abandoned after midnight 30 October, 2002;
- the Office mailed a Notice of Abandonment on 12 February, 2004;
- the original petition was filed on 24 January, 2005, with fee, reply, and a statement of

unintentional delay, however, in light of the delay between the date of abandonment and the filing of the instant petition–*i.e.*, nearly 27 months–and the nearly 12 months delay between the Notice of Abandonment and the filing of the instant petition, Petitioner is requested to make a more detailed showing as to the events which constituted the unintentional delay herein–and so the petition was dismissed on 18 February, 2005, for failing to satisfy the "showing" requirement of the regulation;

- the instant petition addresses those deficiencies.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has satisfied y the requirements of the regulation.

CONCLUSION

The record (including the petitions filed on 24 January and 28 March, 2005) does not necessitate a finding that the delay between midnight 30 October, 2002 (date of abandonment), and 28 March, 2005 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioners' Counsel James C. Scheller, Jr. (Reg. No. 31,195) when accepting Petitioners' representation that the delay in filing the response was unintentional.[7]

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to OIPE for further processing before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[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 Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORRIGAN LAW OFFICE
5 BRIARCLIFF CT
APPLETON, WI 54915

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OFFICE OF PETITIONS

In re Application of
Gerd Huismann, et al.
Application No. 10/200,860
Filed: July 23, 2002
Attorney Docket No. ITW 13763

ON PETITION

This is a decision on the petition, filed September 21, 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 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 (703) 305-9220.

The application is being referred to Technology Center AU 1725 for further processing of the request for continued examination under 37 CFR 1.114 filed September 21, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Gerd Huismann, et al.
Application No. 10/200,860
Filed: July 23, 2002
Attorney Docket No. ITW 13763

ON PETITION

This is a decision on the petition, filed May 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1725 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLETON, WI 54915

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OFFICE OF PETITIONS

In re Application of :
Gerd Huismann et al :
Application No. 10/200,863 : DECISION ON PETITION
Filed: July 23, 2002 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. ITW 13762 :

This is a decision on the petition, filed April 29, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application stated to have been filed of even date. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This abandoned matter is being referred to Files Repository.

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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United States Patent and Trademark Office
P.O. Box 1450
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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Ricardo L. De Queiroz	:	
Application No. 10/200,872	:	
Filed: July 22, 2002	:	ON PETITION
Attorney Docket Number:	:	
D/99422Q2	:	

This is a decision on the Petition Under 37 CFR 1.181, filed May 3, 2006. Applicant avers that a timely reply to the office action was filed.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 22, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant asserts that a timely reply was filed on January 3, 2006. In support of this assertion, Applicant files a copy of a Response, which includes a Certificate of Facsimile dated January 3, 2006. The Certificate of Facsimile was executed by Petitioner herein.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 2131 for processing of the Response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/200,872	07/22/2002	Ricardo L. de Queiroz	99422Q2-US-NP	4156

75931 7590 05/08/2009
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

EXAMINER
REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
05/08/2009	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dmasters@bnpatentlaw.com
dneels@bnpatentlaw.com
mnickerson@bnpatentlaw.com

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAY 07 2009

TECHNOLOGY CENTER 2100

Michael J. Nickerson
Bash & Nickerson LLP
1777 Penfield Road
Penfield, New York 14526

In re Application of:
Ricardo L. de Queiroz
Application No. 10/200,872
Filed: July 22, 2002
For: System and Method for Authentication of JPEG Image Data

DECISION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. 1.181(a) to withdraw the holding of abandonment of the above-identified application mailed on April 9, 2009.

Appellant filed a petition under 37 C.F.R. 1.181(a) to seek relief from actions of the Examiner in relation to the Notice of Abandonment mailed on April 9, 2009. In the petition, Appellant alleged that the Examiner's Notice of Abandonment was premature as 37 C.F.R 41.52 (a)(1) and/or 37 C.F.R. 1.304(a)(1), gives Appellant two months from the date of the Board of Patent Appeals and Interferences to file a Request for Hearing.

Appellant has cited the proper controlling law and a review of the file indicates that the two months period had not expired because the Board of Appeals and Interferences issued a decision on March 17, 2009. The Examiner issued the Notice of Abandonment on April 9, 2009, which was less than a month from the decision by the Board of Appeals and Interferences.

Accordingly, the petition under 37 C.F.R. 1.181(a) to withdraw the holding of abandonment is **GRANTED.**

After processing this withdraw of the holding of abandonment the Board of Patent Appeals and Interferences will be notified of the April 10th request for rehearing.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400
571-272-3612

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CORRIGAN LAW OFFICE
5 BRIARCLIFF CT
APPLETON WI 54915

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerd Huismann et al	:	
Application No. 10/200,886	:	ON PETITION
Filed: July 23, 2002	:	
Attorney Docket No. ITW 13756	:	

This is a decision on the petition, filed March 15, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed March 15, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

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
www.uspto.gov

Paper No. _____

Date : March 17, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Gerd Huismann et al
Application No. :10/200,886
Filed :July 23, 2002

The above-identified application has been assigned Patent No. 6,870,133 and an issue date of March 22, 2005.

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 March 22, 2005:

"All reference to Patent No. 6,870,133 to Gerd Huismann et al of Germany for METHOD AND APPARATUS FOR WELDING WITH MECHANICAL ARC CONTROL appearing in the Official Gazette of March 22, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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OCT 25 2005

OFFICE OF PETITIONS

CORRIGAN LAW OFFICE
5 BRIARCLIFF CT
APPLETON WI 54915

In re Application of	:	
Gerd Huismann et al	:	
Application No. 10/200,886	:	ON PETITION
Filed: July 23, 2002	:	
Attorney Docket No. ITW 13756	:	

This is a corrected decision on the petition, filed March 15, 2005, which was improperly filed and treated, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application was withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) in a decision mailed March 17, 2005.

Office records indicate that this application is currently scheduled to issue on November 8, 2005, based on the issue fee paid on August 26, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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.
10/200,895	07/22/2002	Ricardo L. de Queiroz	99422-US-NP	3650

75931 7590 05/25/2010
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

EXAMINER
PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
2437	

NOTIFICATION DATE	DELIVERY MODE
05/25/2010	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dmasters@bnpatentlaw.com
dneels@bnpatentlaw.com
mnickerson@bnpatentlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Nickerson
Basch & Nickerson, LLP
1777 Penfield Road
Penfield NY 14526

In re Application of:
Queiroz.
Application No. 10/200895
Filed: July 2, 2002
For: System and Method for Authentication of JPEG Image Data

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed December 6, 2008 under 37 CFR § 1.181 to have the examiner initial to the left of the references on the 1449 per MPEP 609.08 to indicate consideration of references on the Information Disclosure Statements (IDS) filed on December 13, 2004.

The last 6 lines of MPEP 609.08 gives the examiner an alternative form of initialing a 1449 which the examiner properly followed.

> As of October 1, 2007, examiners may use an alternative electronic signature method for IDS. Under the alternative electronic signature, examiners will no longer initial each reference citation considered, but will continue to strikethrough each citation not considered. Each page of reference citations will be stamped by the examiner with the phrase "All references considered except where lined through" along with the examiner's electronic initials, and the final page of reference citations will include the examiner's electronic signature.

Accordingly, the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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Paper No. 6

Ohanes Ghazarian
530 Startop Street
Henderson, NV 89052

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of
Ohanes Ghazarian
Application No. 10/200,905
Filed: July 22, 2002
Title: Intersection Vehicle Collision Avoidance System

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed November 1, 2005, to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on February 20, 2004, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on May 21, 2004. A Notice of Abandonment was mailed on September 20, 2004.

In the petition, petitioner asserted that on May 18, 2004, he filed a timely reply to the nonfinal Office action, as well as a "Notice of address change." Petitioner stated that the Office did not enter his change of correspondence address in the present application. In support of his assertion, petitioner submitted a copy of the delivery information and Track and Confirm Search results from the USPS for a package, bearing Express Mail label No. ER540132198US, which showed that the item was delivered to the USPTO on May 19, 2004. Additionally, petitioner included a copy of the aforementioned Express Mail label, which indicated a date-in of May 18, 2004. Accordingly, petitioner requested that the Office withdraw the holding of abandonment and remail the Office action.

A review of the application file indicates that petitioner submitted a change of correspondence address with the USPTO on November 13, 2003. Unfortunately, the Office did not change the correspondence address as requested. For this reason, the petition is **granted**. The Office has entered the new correspondence address and made it of record.

The Office did <u>not</u> locate the response to the nonfinal Office action, which petitioner asserted he mailed on May 18, 2004. Nevertheless, the Notice of Abandonment is hereby withdrawn.

The Technology Center is directed to remail the nonfinal Office action to the petitioner and restart the period for reply.

The application file is being forwarded to Technology Center Art Unit 2632 for further action consistent with this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OHANES GHAZARIAN
2575 HORIZON RIDGE PKWY# 1611
HENDERSON NV 89052

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of
Ohanes Ghazarian
Application No. 10/200,905
Filed: July 22, 2002
Title of Invention: Intersection vehicle collision avoidance system

ON PETITION

This is a decision on the petition filed November 6, 2006, to withdraw the holding of abandonment of the above-identified application, which is being treated under 37 CFR 1.181.

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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on May 16, 2006, for failure to file a reply to the non-Final Office Action mailed February 14, 2006. Accordingly, a Notice of Abandonment was mailed September 26, 2006.

Petitioner argues that a reply was filed May 10, 2007. Although a copy of the response was not filed with the petition, petitioner has included a copy of an Express Mail receipt with a date-in of May 10, 2006. Unfortunately, neither a certificate of mail pursuant to 37 CFR 1.8[1], or a postcard receipt pursuant to MPEP 503[2] was used and either would have been accepted as proof of filing but not an express mail label to prove the contents of the package mailed on May 10, 2007, unless the express mail number was placed on the contents of the package.

---

[1] 37 CFR 1.8(b) states that 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 by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

[2] The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that Express Mail No. EQ463798993US was placed on the amendment, a copy of which was received in this office on August 20, 2007, to show that the amendment was timely filed, thus, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to filed a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OHANES GHAZARIAN
2575 HORIZON RIDGE PKWY# 1611
HENDERSON NV 89052

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of
Ohanes Ghazarian
Application No. 10/200,905
Filed: July 22, 2002
Title of Invention: Intersection vehicle collision avoidance system

ON PETITION

This is a decision on the renewed petition filed November 21, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

The above-referenced application was held abandoned on May 16, 2006, for failure to file a reply to the non-Final Office Action mailed February 4, 2006. Accordingly, a Notice of Abandonment was mailed September 26, 2006.

Petitioner argues that a reply was filed May 10, 2006. A petition filed November 6, 2006 was dismissed in a decision mailed September 27, 2007 because although a copy of an Express Mail receipt with a date-in of May 10, 2006 was filed, no response was filed with the petition. Furthermore, the supporting documentation did not include a certificate of mail under 37 CFR 1.8 or 1.10 and neither was the express mail number placed on the documents filed. Thus, the express mail label by itself was not sufficient to prove the package mailed contained the response purportedly mailed on May 10, 2006.

Comes now petitioner with the instant petition and copies of the response to the non-Final Office Action with a certificate of mail date of May 10, 2006 to show that the response was timely filed.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2612 for appropriate action on the amendment filed May 10, 2006 (certificate of mail date), a copy of which was submitted November 21, 2007 with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

MAR 16 2005

TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Benjamin David Foster et al.
Application No. 10/200,908 :
Filed: July 22, 2002 :
For: SELLER CONFIGURABLE MERCHANDISING IN AN ELECTRONIC MARKETPLACE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/200,908

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 01/28/05

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MAY 2 5 2006

Technology Center 2100

Michael J. Nickerson
BASCH & NICKERSON LLP
1777 Penfield Road
Penfield, New York 14526

In re Application of:	)	
Ricardo L. de Queiroz	)	
Application No. 10/200,925	)	
Filed: July 22, 2002	)	**DECISION ON PETITION**
For: SYSEM AND METHOD FOR	)	**UNDER 37 CFR § 1.181**
AUTHENTICATION OF JPEG IMAGE	)	
DATA	)	

This is a decision on the petition, filed 17 March 2006, under 37 C.F.R. § 1.181(a) to invoke Supervisory Authority of the Commissioner and require the Examiner to consider the article entitled "Authentication and Access Control in the JPEG 2000 Compressed Domain".

The petition is **GRANTED.**

The Information Disclosure Statement filed on 17 March 2006 has been considered by the examiner. Enclosed herewith is a copy of the PTO-1449 with examiner's initial and signature.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

Attachment: PTO-1449

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 25 2005

Director's Office
Office of Patent Publication

SPERRY, ZODA, & KANE
SUITE D
ONE HIGHGATE DRIVE
TRENTON, NJ 08618

In re Application of :
ZIEGLER, MITCHELL, et al. :
Application No. 10/200,942 :
Filed: July 23, 2002 :
Attorney Docket No. ZIE-1 :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding of Abandonment Under MPEP 711.03(c)I and 37 CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on February 26, 2004. The deciding official in the Office of Patent Publication became aware of the petition on January 21, 2005.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee as required in the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 23, 2003, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed February 17, 2004.

Petitioner states that the applicant submitted the Issue Fee along with a Fee Address Indication Form, in early November 2003.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal—which is present in the application file—on November 10, 2003, as evidenced by the "Office Date" stamp thereon. However, item 4B. Payment of Fee(s) was not completed, indicating the method in which the fees were to be paid and a Deposit Account No. was omitted.

Petitioner should review the amended rules pertaining to previously filed authorization to pay fees. Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee such as by submitting an incorrect issue fee amount, or completing a fee transmittal form (or letter) for payment of issue fee or publication fee, a request to charge such fees to any deposit account identified in a previously filed authorization, submitted prior to the mailing of the notice of allowance, will be allowed to act a payment of the correct issue fee.

Unfortunately, investigation of the application file reveals there's no authorization to charge such fees, only an authorization to charge any additional fees required under 37 CFR §§ 1.16 and 1.17.

The petitioner should consider petitioning the Director as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b).

■ Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must include the following:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director Commissioner may require additional information where there is a question whether the delay was unintentional;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Further correspondence with respect to filing the petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9285 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sperry, Zoda & Kane
Suite D
One Highgate Drive
Trenton NJ 08618

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Ziegler :
Application No. 10/200,942 :
Filed: July 23, 2002 :
Attorney Docket No. ZIE-1 :
For: AUDIO VISUAL DISPLAY SYSTEM FOR USE AT AN INTERMENT OR MEMORIAL SITE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2005 (certificate of mailing date January 27, 2005), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the September 23, 2003 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on December 24, 2003. A Notice of Abandonment was mailed on February 17, 2004.

Applicant has submitted a reply in the form of the issue fee and the PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the September 23, 2003 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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APR 26 2007

OFFICE OF PETITIONS

In re Application of :
Joseph P. Vacanti et al :
Application No. 10/200,955 :
Filed: July 22, 2002 :
Attorney Docket No. 910000-2018.1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Petitioner has not indicated that this application is to be expressly abandoned in favor of the filing of a continuing application. To facilitate processing, any petition to revive under 37 CFR 1.137(b) in which a continuing application is filed in lieu of a reply should specifically refer to the filing of the continuing application and also should include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Nevertheless, in view of the statement in the petition that the reply is the filing of a continuing application, this will be construed as a request to expressly abandon this application in favor of the continuing application. If this is an incorrect interpretation of the statement appearing in the petition, petitioner must promptly notify the Office.

In view of the above, this application is revived for purposes of continuity only. As continuity has been established by this decision granting the petition to revive, this application is again abandoned in favor of continuing application No. 11/591,984, filed November 2, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Warren H. Kurtz, et al.	:	
Application No. 10/200,980	:	DECISION ON REQUEST
Filed: July 22, 2002	:	TO WITHDRAW
Attorney Docket No. WHK-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed September 30, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Howard J. Greenwald and all the attorneys/agents of record associated with Customer No. 37282 was revoked by the assignee of the patent application on December 1, 2005. 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.

There is no outstanding Office action that requires a response by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Ruden, McClosky, Smith, Schuster & Russell, P.A.
P.O. Box 1900
Fort Lauderdale, FL 33301

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Leto et al.	:	
Application No. 10/201,003	:	DECISION ON PETITION
Filed: July 23, 2002	:	TO WITHDRAW
Attorney Docket No. 44437-0013	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 13, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Stanley A. Kim does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Therefore, there is no authority to sign the request to withdraw on behalf of the attorney of record, Mr. Robert M. Schwartz.

All future communications from the Office will continue to be directed to the address above until otherwise properly notified by the applicant.

A non-final rejection was mailed on February 2, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kevin R. Leto
5030 Champion Blvd. – 6-309
Boca Raton, FL 33496

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Fort Lauderdale, FL 33301

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OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Leto et al.	:	
Application No. 10/201,003	:	DECISION ON PETITION
Filed: July 23, 2002	:	TO WITHDRAW
Attorney Docket No. 44437-0013	:	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 1, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert E. Schwartz, sole attorney of record.

Robert E. Schwartz has been withdrawn as attorney or agent of record.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kevin Leto
5030 Champion Blvd.
6-309
Boca Raton, FL 33496

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/201,003	07/23/2002	Kevin R. Leto	44437-0013

CONFIRMATION NO. 4754

OC000000024252762

20822
RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
P.O. BOX 1900
FORT LAUDERDALE, FL 33301

Date Mailed: 06/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2007.

- 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.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Bradley P. Heisler
Heisler & Associates
3017 Douglas Boulevard, Suite 300
Roseville CA 95661

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OFFICE OF PETITIONS

In re Application of
Robert Rutherford
Application No. 10/201,024
Filed: July 22, 2002
Attorney Docket No. 3664P2505

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the final Office Action mailed October 7, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on January 8, 2005. A Notice of Abandonment was mailed on July 12, 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. Accordingly, 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. On July 1, 2005, petitioner submitted a $510.00 extension of time fee, subsequent to the maximum period obtainable for reply. Therefore, this fee is unnecessary and is refundable. Petitioner may request a refund of the $510.00 extension of time fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center Art Unit 2855.

Telephone inquiries 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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ROBERT M. HUNTER PLLC
P.O. BOX 2709
KAMUELA HI 96743

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OCT 24 2006
OFFICE OF PETITIONS

In re Application of
Christopher M. Hunt
Application No. 10/201,035
Filed: July 23, 2002
Attorney Docket No. 366WBN

DECISION ON PETITION

This is decision on the petition under 37 CFR 1.181, filed June 9, 2006, to withdraw the holding of abandonment in the above-identified application.

On October 12, 2005, the Office mailed a Notice Regarding Drawings, which set two-month non-extendable period to respond. In the apparent absence of a timely filed reply, the application became abandoned on December 13, 2005. On January 23, 2006, the Office mailed a Notice of Abandonment, which stated that a reply, including a certificate of mailing date December 10, 2005, was received in the Office on December 14, 2005. The Notice of Abandonment indicated that the certificate of mailing failed to comply with the requirements of MPEP 512 because it was placed on a separate sheet that did not fully identify the papers it accompanied. Lastly, the Notice stated that application was abandoned because the date-stamp of December 14, 2005, fell outside of the period for reply as set forth in the Notice Regarding Drawings.

In the present petition, petitioner requested that the Office withdraw the Notice of Abandonment and reset the period for reply. Petitioner asserted that certificate of mailing complied with MPEP 512(I)(C) and quoted the section, adding emphasis to the following portion:

> When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable. Moreover, <u>without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.</u> If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a

> copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP § 503 relative to the use of postcards as receipts.

Specifically, petitioner stated:

> There was never any question or doubt concerning the connection between the sheet containing the certificate of mailing and the rest of the paper filed. The sheet, the remainder of amendment, the drawings and the replacement drawings were itemized on the return postcard (attached) and were firmly attached together with the return postcard with a binder clip. Moreover, the application was marked on each of the five sheets of the amendment and all of the amendment found its way to the file wrapper.

The Office has carefully reviewed the record and petitioner's argument in support of his request to withdraw the holding of abandonment. The record reveals that the certificate of mailing was placed on the first page of the document submitted to the Office on December 14, 2005, and it identified the application number and filing date of the present application. Furthermore, the first page was labeled with "Page 1 of 5" and page 4 of 5 clearly stated that there 18 drawing sheets were attached. Therefore, the Office agrees with petitioner that there is no question that all of the pages of the document (including the drawings and the sheet) came into the Office together. Accordingly, the petition under 37 CFR 1.181 is **granted**. Nevertheless, the Office strongly advises petitioner that in the future each paper filed in the USPTO should contain its own certificate of mailing, or the sheet should clearly identify each submitted paper in order to avoid any unwanted consequences.

The matter is being referred to Technology Center Art Unit 3635 for review of the response to the Notice Regarding Drawings.

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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OFFICE OF PETITIONS

In re Application of
Christopher M. Hunt
Application No. 10/201,035
Filed: July 23, 2002
Attorney Docket No. 366WBN

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **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 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 of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) 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)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 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 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) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3635 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
BELLSOUTH IP CORP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

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SEP 2 0 2006

OFFICE OF PETITIONS

In re Application of	:
Edward Michael Silver et al	:
Application No. 10/201,043	: DECISION GRANTING PETITION
Filed: July 23, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 190206-1360	:

This is a decision on the petition, filed September 19, 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 August 3, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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JUL 21 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,370,320	: ON PETITIONS under
Issued: May 6, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 10/201,055	: FOR RECONSIDERATION OF
Filed: July 23, 2002	: PATENT TERM ADJUSTMENT
Dkt. No.: 07844-749001	:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on November 7, 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 May 6, 2008, the above-identified application matured into U.S. Patent No. 7,370,320, with a revised patent term adjustment of 681 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 Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183 TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 6, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 7, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 6, 2008, the date two months from the date this patent issued, May 6, 2008. Rather, on November 7, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

---

[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

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is that "Assignee may lose several hundred days in the life of its patent through no fault of its own, seriously prejudicing Assignee in fully enforcing its statutory patent rights if this petition is not granted" in view of the situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states in view of Wyeth, "the Office's method for calculation the PTA was in error" and that "as a result of this change in the law, which occurred more than four months after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment."

Petitioner has not established that he was precluded from filing a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Instead, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

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.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 7, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 1,107 days.

On May 6, 2008, the above-identified application matured into U.S. Patent No. 7,370,320 with a revised patent term adjustment of 681 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on November 7, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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November 9, 2009

Brian J. Gustafson
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

Patent No: 7,594,218 B1
Application No: 10/201,056
Applicant: Slavik Lozben
Issued: September 22, 2009
Title: **SYSTEM AND METHOD FOR PROVIDING AUDIO IN A MEDIA FILE**

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 1.322/1.323.

The errors, purported to be in columns 8, 9, and 10 lines 43, 63 and 34 can not be found in the printed patent.

In view of the foregoing, your request in this matter is dismissed.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
571 272-0460 (voice)
571 270-9892 (fax)

vt

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P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Slavik Lozben	:	DECISION ON
Patent Number: 7,594,218	:	PETITION
Issue Date: 09/22/2009	:	UNDER RULE 1.705
Application No. 10/201056	:	and
Filing or 371(c) Date: 07/23/2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 07844-748001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 23, 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 two thousand one hundred seventy (2170) 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 two thousand one hundred seventy (2170) days is **GRANTED to the extent indicated herein**.

Applicant notes that the Office errantly neglected to assess a reduction of 14 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement ("IDS"), filed April 30, 2007. The reduction commenced April 15, 2007, the day after the date that IDS, and ended April 30, 2007, the date that the supplemental IDS was filed.

As to the period of overlap, the period is calculated beginning 120 days after the "B" period, or November 20, 2005, and is 418 days, not 538 days. As such, the patent term adjustment is 2290, not 2170 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 two thousand two hundred ninety **(2290)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,594,218 B1

DATED : **September 22, 2009**

INVENTOR(S) : Lozben

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 1518 days.

Delete the phrase "by 1518 days" and insert – by 2290 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Clemente et al	:	
Application Number: 10/201,058	:	
Patent: 6,851,827		
Attorney Docket Number: 21323.000324	:	
Filing Date: July 22, 2002	:	
Issue Date: February 8, 2005	:	DECISION ON PETITION
Title of Invention: Submersible Lantern	:	

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on February 14, 2005. The petition is properly 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**.

Petitioner has submitted a $400.00 petition fee. The processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required. Pursuant to petitioner's request deposit account 50-0206 is being refunded $270.00. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and will be charged to the deposit account.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stanislaus Aksman, Esq.
HUNTON & WILLIAMS
Suite 1200
1900 K Street, NW
Washington DC 20006-1109

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Clemente et al :
Application Number: 10/201,058 :
Patent: 6,851,827
Attorney Docket Number: 21323.000324 :
Filing Date: July 22, 2002 :
Issue Date: February 8, 2005 :
Title of Invention: Submersible Lantern :

CORRECTED
DECISION ON PETITION

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on February 14, 2005. The petition is properly 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**.

Petitioner has submitted a $400.00 petition fee. The processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required. Pursuant to petitioner's request deposit account 50-0206 is being refunded $270.00. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and will be charged to the deposit account.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

COPY MAILED

APR 0 7 2005

OFFICE OF PETITIONS

In re Application of
Stanton F. McHardy
Application No. 10/201,119
Filed: July 23, 2002
Attorney Docket No. PC11723A

ON PETITION

This is a decision on the petition filed March 14, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 8, 2005 for failure to timely pay the issue fee on or before January 7, 2005. Accordingly, a Notice of Abandonment was mailed February 18, 2005.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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ALEXANDRIA, VA 22313-1450
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DEC 0 6 2006
OFFICE OF PETITIONS

FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

In re Application of
Tracy E. Grim, et al.
Application No. 10/201,124
Filed: July 23, 2003
Attorney Docket No. ROYCE-66888

ON PETITION

This is a decision in response to the petition, filed July 19, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed April 14, 2005. A Notice of Abandonment was mailed on November 17, 2005. On July 19, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3764 for consideration of the amendment filed July 19, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

W L Gore and Associates Inc
551 Paper Mill Road
P O Box 9206
Newark DE 19714-9206

Dear Applicant:

The Box PGPub replacement drawings for application number 10/201,172 received on 7/15/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-07

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Pilar Manchon Portillo	:	DECISION ON PETITION TO
Application Number: 10/201178	:	WITHDRAW HOLDING OF
Filing Date: 07/23/2002	:	ABANDONMENT
Attorney Docket Number: 650-	:	
A01-002	:	

This is a decision on the "PETITION REQUESTING WITHDRAWAL OF ABANDOMMENT", filed on 3 August, 2007. This is also a decision on the petition under 37 CFR 1.137(b) filed on 3 August, 2007 (certificate of mailing date 5 January, 2007).

The petition to withdraw the holding of abandonment is **DISMISSED as moot**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the non-final Office action mailed on 28 March, 2006, which set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed on 6 October, 2006.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner, in pertinent part, that the petition under 37 CFR 1.137(b) and amendment were filed within three months of the mailing of the Notice of Abandoment. "Therefore, the abandonment of this application should have been withdrawn and prosecution continued."

Petitioner further averts that he "believes that the Petition and Amendment were received by the United States Patent and Trademark Office ("USPTO"). However, Petitioner has not yet received a reasponse to the Petition and Amendment… In case the Petition and

Amendment were not received by the USPTO or were not properly entered, Petitioner is now filing this Petition to request withdrawal of the abandonment of this application based on the Petition and Amendment that were mailed to the USPTO on January 5, 2007."

Petitioner has presented no evidence to support a withdraw of the holding of abandonment. It appears, instead, that petitioner is supplying a duplicate copy of a previously-filed revive, and requesting treatment thereof.

As such, the petition to withdraw the holding of abandonment is **dismissed as moot**. The petition to revive will be treated on its merits.

PETITION UNDER 37 CFR 1.137(b).

It is noted that the petition under 37 CFR 1.137(b) contains a certificate of mailing dated 5 January, 2007, signed by attorney Stephen Bongini. As such, the showing of record is that the petition under 37 CFR 1.137(b) was filed on 5 January, 2007, but was subsequently misplaced in the Office. 37 CFR 1.8(b).

The petition is **granted**.

Receipt of the amendment supplied with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 2626 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Jeffrey J. Skelton
Cargill Incorporated
Law Department
P.O. Box 5624
Minneapolis, MN 55440

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Khare et al.	:	DECISION ON APPLICATION
Application No. 10/201,191	:	FOR
Filed: July 23, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. CGL00/200.US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B)," filed November 3, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred one (201) days to two hundred fifty-four (254) 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 fifty-four (254)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 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 201 days. On November 3, 2005, applicants timely submitted the instant application for patent term

adjustment[1]. Applicants dispute the reduction of 53 days associated with the filing of an Information Disclosure Statement on February 25, 2005. Applicants assert that the reduction is not warranted because the IDS was filed in compliance with the requirements of 37 C.F.R. § 1.704(d).

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

37 C.F.R. § 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

A review of the supplemental IDS filed February 25, 2005 reveals that it included the following statement:

> I, the undersigned, hereby certify that each item of information contained in this statement was first cited in the attached communication from a foreign patent office in a counterpart foreign application, the communication being dated January 27, 2005, which is not more than one month prior to this statement.

This statement is not in compliance with § 1.704(d). The statement does not track the exact language of § 1.704(d). Most importantly, it does not include a statement that "this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement." In view thereof, the reduction of 53 days was properly entered.

---

[1] PALM records indicate that the Issue Payment was also filed on November 3, 2005.

Nonetheless, on instant application for patent term adjustment, attorney Edna Vassilovski now certifies that each item of information submitted in the IDS was first cited in a communication from the European Patent Office in a counterpart application and was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the IDS. In view thereof, the reduction of 53 days is being removed.

The determination of patent term adjustment at the time of the mailing of the notice of allowance is 254 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

OCT 24 2005

OFFICE OF PETITIONS

In re Patent of :
Lee et al. :
Patent No. 6,878,468 :
Issued: April 12, 2005 : ON PETITION
For: COMPOUNDS CAPABLE OF :
TRANSPORTING/INJECTING HOLE AND :
ORGANIC ELECTROLUMINESCENT DEVICE :
HAVING SELF-ASSEMBLED MONOLAYER :
COMPRISING THE SAME :

This is a decision on the Petition Pursuant to 37 CFR § 1.182, filed October 11, 2005, to suspend 37 CFR 1.323, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

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", and should only address the deficiencies noted below. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicant requests suspension of 37 CFR 1.323 to allow the addition of an assignee. Applicant provides that the issue fee transmittal form inadvertently omitted one of the assignees of the above-identified patent. Petitioner also provides what is putatively "a copy of the recordation of this Assignment by the Assignment Division" of this Office; however, a review of the document reveals that it bears no indicia of having been

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

recorded with this Office, and the document appears to be a copy of an assignment. Petitioner has failed to state that the assignment was submitted for recordation before issuance of the patent. Finally, Applicant files a "proposed certificate of correction form" and presumably requests a certificate of correction adding the inadvertently omitted assignee.

Applicable Law, Rules and MPEP

37 CFR 3.81 was revised to read that

> 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 that a patent 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 certificate of correction under § 1.323 of this chapter. (Emphasis supplied).

Here, Petitioner has failed to state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Petitioner has also failed to include a request for certificate of correction.

In accordance with 37 CFr 1.81(b), Petitioner 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 certificate of correction under § 1.323 of this chapter.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR &
ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED
APR 28 2006
OFFICE OF PETITIONS

In re Patent of	:	
Lee et al.	:	
Patent No. 6,878,468	:	
Issued: April 12, 2005	:	ON PETITION
For: COMPOUNDS CAPABLE OF	:	
TRANSPORTING/INJECTING HOLE AND	:	
ORGANIC ELECTROLUMINESCENT DEVICE	:	
HAVING SELF-ASSEMBLED MONOLAYER	:	
COMPRISING THE SAME	:	

This is a decision on the Petition for Extension of Time and Request for Reconsideration of Petition, filed March 29, 2006, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

OIPE JC154
SEP 3 0 2002
TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Alex Gubbels	Examiner:	Unknown
Serial No.:	10/201,337	Atty. Dkt. No.:	2002 P 11743 US
Filed:	07/23/2002	Group Art No.:	Unknown
Title:	Electric Motor with Integrated Heat Shield		

Certificate of Mailing Pursuant to 37 CFR § 1.8
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to: The Assistant Commissioner for Patents, Washington, DC 20231

9-23-02
Date

Nancy A. Demko

10201337.092302

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Assistant Commissioner for Patents
Washington, DC 20231
Attention: Box Missing Parts

Sir:

This is a response to the Notice to File Missing Parts of Application having a mailing date of August 15, 2002, and for which a period for response of two (2) months after the mailing date or two (2) months from the filing date is set to expire October 15, 2002.

Enclosed is the Declaration for Patent Application. Also enclosed is a copy of the Notice to File Missing Parts of Application.

Please charge **Deposit Account No. 19-2179** for the surcharge of **$130.00** in accordance with 37 CFR § 1.16(e). Triplicate copies of this Response are enclosed. Issuance of a formal Filing Receipt is respectfully solicited.

It is not believed that any additional fees are due in connection with this paper, however, the Commissioner is authorized to charge any fees or credit any overpayment to **Deposit Account No. 19-2179.**

Respectfully submitted,

Date: 9/23/02

Frank J. Nuzzi
Reg. No. 42,944

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830
(732) 321-3002

OIPE JC154
SEP 3 0 2002
PATENT & TRADEMARK OFFICE

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/201,337	07/23/2002	Alex Gubbels	2002 P 11743 US

CONFIRMATION NO. 4572

FORMALITIES LETTER

OC000000008628485

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

Date Mailed: 08/15/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52 because:
  - The specification cannot be scanned or properly stored. Page(s)
    - Papers must be legibly written either by a typewriter or mechanical printer in permanent ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable, and white paper. Application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic reproduction by use of digital imaging and optical character recognition. Pages **1, 3, 6, 7, 8, and 9** are not in compliance with 37 CFR 1.52(a). *The drawings filed are unacceptable because:*

10201337 .093002
10/02/2002 WABDELR1 00000133 192179 10201337
01 FC:105 130.00 CH

Replacement page(s), together with a statement that the replacement page(s) contain no new matter, are required.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**130** for a Large Entity

- $**130** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

VINN TRUONG

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

10201337.093002

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-29-08 **Paper No.:** _____

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 10201343 Patent No.: 7114106

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/201,345	07/23/2002	Primit Parikh	P0212US-7	4579

7590 10/28/2003

KOPPEL, JACOBS, PATRICK & HEYBL
555 ST. CHARLES DRIVE, SUITE 107
THOUSAND OAKS, CA 91360

EXAMINER
HU, SHOUXIANG

ART UNIT	PAPER NUMBER
2811	

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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In re:	PARIKH et al.	:DECISION ON REQUEST
Petition No.:	10/201,345	:UNDER 37 CFR 5.25
Submission date:	June 16, 2003	
Docket No:	P0212US7	

Title: INSULATING GATE A1GaN/GaN HEMT

This is a decision on the petition filed on October 16, 2002 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

Petitioner's declaration states that provisional application 60/307,546, from which the present application claims priority, has received a foreign filing license, and that the invention disclosed in the provisional is disclosed in the present application. Therefore, a retroactive license is not required.

The petition is **DISMISSED** in that the petitioner's declaration indicates that a license was not required.

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

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P.O. Box 1450
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AMIN, TUROCY & CALVIN, LLP
1900 EAST 9TH STREET
NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Turocy	:	
Application No. 10/201,346	:	DECISION
Filed: 23 July, 2002	:	
Attorney Docket No. GTP101US	:	

This is a decision on the petition filed on 26 October, 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 **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed 21 December, 2006, with reply due absent extension of time on or before 21 March, 2007;
- Petitioner filed a Notice of Appeal (with fee) on 21 March, 2007; with Appeal Brief (with fee) due absent extension of time on or before 21 May, 2007;
- the application went abandoned after midnight 21 May, 2007;
- the Office mailed the Notice of Abandonment on 26 September, 2007;

- on 26 October, 2007, Petitioner filed the instant petition with, *inter alia*, averment of timely filing, which Petitioner supported with, *inter alia*, a dated 20 September, 2007, Receipt Acknowledgement and copies of a request for continued examination with fee and submission in the form of an amendment and request for extension of time and fee, a showing consistent with the instructions of the guidance in the Commentary MPEP §711.03 (c).

And Office records now reflect the foregoing.

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.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to 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] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 26 September, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 1714 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

---

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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[8]) 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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[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

In re Application of	:	
Joseph Reid Henrichs	:	
Application No. 10/201,366	:	ON PETITION
Filed: July 23, 2002	:	
Title: Phase-Change Microhead Array Chip	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed October 26, 2005. This Office action set an extendable period for reply of one month. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on November 27, 2005. Applicant filed a reply on April 12, 2006, after the application was already abandoned. A courtesy Notice of Abandonment was mailed on June 12, 2006.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 2627 for consideration of the Amendment filed August 16, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Molex Incorporated
2222 Wellington Court
Lisle, IL 60532

In re Application of:
DIBENE, Joseph Ted
Application No.: 10/201,384
Filed: July 23, 2002
Atty's Docket No.: INCEP.005C1

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 15, 2006.

The petition is **GRANTED**.

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 mailed July 23, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on October 24, 2004.

On September 15, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Blvd.
Houston, TX 77018

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OFFICE OF PETITIONS

In re Application of	:
Akers et al.	:
Application No. 10/201,385	: DECISION GRANTING PETITION
Filed: July 23, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. N/A	:

This is a decision on the petition, filed June 10, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on July 23, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the 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 9, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2859 for examination in due course.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Blvd.
Houston, TX 77018

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
Akers et al.	:DECISION DISMISSING PETITION
Application No. 10/201,385	:UNDER 37 CFR 1.137(b)
Filed: July 23, 2002	:
Attorney Docket No. N/A	:

This is a decision on the petition under 37 CFR 1.137(f),[1] filed June 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on July 23, 2002, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on July 23, 2002, the same date as the filing date of the instant application.

---

[1] 37 CFR 1.137(b) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (I) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (I), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on July 23, 2002, and the corresponding foreign application was also filed on July 23, 2002. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under the multilateral international agreement. In view of petitioner's statement that the corresponding foreign application was filed on July 23, 2002, the same date as the filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

Since the corresponding foreign or international application was either filed on the same date or filed prior to the filing date (this would be true if the corresponding foreign or international application has a filing date of July 23, 2002) as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a

petition to revive pursuant to the provisions of 37 CFR 1.137(b) is inappropriate and, consequently, must be dismissed.

The Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating the projected date of publication of October 9, 2003 accompanies this decision.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(c)(7). Therefore, the $650 petition fee will not be refunded.

This application is being forwarded to Technology Center AU 2859 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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GERALD B. ROSENBERG
NEW TECH LAW
285 HAMILTON AVE
SUITE 520
PALO ALTO, CA 94301

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OFFICE OF PETITIONS

In re Application of

Pham, et al. :

Application No. 10/201,409

: DECISION ON PETITION

Filed: July 22, 2002

:

Attorney Docket No. AESN3009

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 4, 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 August 5, 2005. A Notice of Abandonment was mailed on November 16, 2005.

The amendment filed January 23, 2006, is noted and made of record.

The request for the extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period set for reply. Further, the request is not necessary as the application was in an abandoned status. The amount of $510.00 will be refunded to deposit account 50-0890, in due course.

The application is being forwarded to Technology Center 2100, GAU 2131 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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OFFICE OF PETITIONS

In re Application of	:	
Endo et al.	:	
Application No. 10/201,434	:	ON PETITION
Filed: January 23, 2002	:	
Attorney Docket No. KON-1738	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

28 APR 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Remy J. VanOphem
VanOphen & VanOphem, P.C.
51543 Van Dyke Avenue
Suite 103
Shelby Township, MI 48316-4447

In re Application of	:
CARAYON et al.	:
Application No. 10/201,455	:
Filing Date: 19 July 2002	: DECISION ON PETITION
Attorney Docket No.: RSA259AUS	: UNDER 37 CFR 1.181
For: PROCESS FOR REPRODUCING A	:
BUNG FOR A METAL CASK	:

This decision is in response to applicant's "Request for Corrected Filing Receipt" filed 04 November 2004 and applicant's "Communication Submitting Third Request for Corrected Filing Receipt" filed 02 February 2004 in the United States Patent and Trademark Office (USPTO). Applicants are requesting that the application papers submitted on 19 July 2002 be considered a filing under 35 U.S.C. 371. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 18 January 2001, applicants filed international application PCT/FR01/00158 which claimed a priority date of 19 January 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 July 2002.

On 19 July 2002, applicants filed, *inter alia*: a transmittal letter for a "Utility Patent Application;"an application containing a specification, including claims and drawings; a small entity statement; a Fee transmittal form (PTO/SB/17); copy of the international application; an Information Disclosure Statement; and a preliminary amendment.

On 20 August 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application indicating that an oath or declaration in compliance with 37 CFR 1.63 must be filed. The notification set a two-month time limit in which to respond.

In response to the Notification mailed 20 August 2004, applicants filed an executed declaration on 09 September 2002.

On 04 November 2002, applicants filed"Request for Corrected Filing Receipt."

On 02 February 2004, applicants filed "Communication Submitting Third Request for Corrected Filing Receipt."

On 18 March 2004, applicants filed a supplemental declaration.

On 28 September 2004, applicants filed a certified copy of the French priority document.

DISCUSSION

Applicants state in the present petition that the above-identified application is a U.S. national stage application, based on PCT application PCT/FR01/00158, which was filed 18 January 2001. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 19 July 2002, applicants submitted a transmittal letter entitled "Utility Patent Application Under 37 CFR 1.53(b)." The submission of a transmittal letter for a "Utility Patent Application Under 37 CFR 1.53(b)" is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 19 July 2002 were properly treated as a filing under 35 U.S.C. 111(a).

Further, a review to the application file reveals that the specification has been amended (by the examiner) to read "[t]his application is 35 U.S.C. 371 of PCT/FR01/00158 filed 1/18/2001." As stated above, the original papers deposited on 19 July 2002 should be treated as a filing under 35 U.S.C. 111(a) and the modification made to the specification were improper.

Since the application is being treated as a filing under 35 U.S.C. 111(a), applicants have not properly claimed benefit of the international application in accordance with 35 U.S.C. 120 and 37 CFR 1.78(a) and, the instant application cannot be considered as a continuing application of PCT/FR01/00158. In order to claim benefit under 35 U.S.C. 120 to the prior-filed PCT application at this point, applicants must file a petition under 37 CFR 1.78(a)(3). The petition under 37 CFR 1.78(a)(3) must be accompanied by: 1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted; (2) the surcharge set forth in § 1.17(t); and; (3) a statement that the

entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

CONCLUSION

The petition under 37 CFR 1.181 to process the application as a national stage application filing under 35 U.S.C. 371 is **DISMISSED** without prejudice.

For the reasons stated above, the application will be withdrawn from issue under 37 CFR 1.313(b).

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." A petition fee will be required. No extensions of time may be obtained under 37 CFR 1.136.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

02 MAY 2006

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Remy J. VanOphem
VANOPHEN & VANOPHEM, P.C.
51543 Van Dyke Avenue, Suite 103
Shelby Township, MI 48316-4447

In re Application of	:	
CARAYON *et al*	:	
U.S. Application No.: 10/201,455	:	
Filing Date: 19 June 2002	:	
Attorney's Docket No.: RSA259A US	:	**DECISION**
For: PROCESS FOR REPRODUCING A	:	
BUNG FOR A METAL CASK	:	

This is a decision on the petition filed on June 29, 2005 which has been treated as a petition under 37 CFR 1.182 to treat the subject application as a national stage application under 35 U.S.C. 371 and a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed benefit claim.

BACKGROUND

On April 28, 2005, a decision dismissing applicant's request to process the above-identified application as a national stage filing of PCT/FR01/00158 under 35 U.S.C. 371 was mailed. Applicants were notified that a petition under 37 CFR 1.78(a)(3) was required to claim benefit to the international application. A Notice of Withdrawal from Issue Under 37 CFR 1.313(b) was also mailed.

On June 29, 2005, applicants filed the present petition to convert and petition under 37 CFR 1.78(a)(3) which was accompanied by, *inter alia*, an amendment to the specification.

DISCUSSION

Petition to Convert

Petitioners request "that this application be processed as a national stage application filing under 35 U.S.C. 371." In a decision dated 28 April 2005, the above-captioned application was deemed to have been filed under 35 U.S.C. 111(a) due to conflicting instructions. Specifically, the transmittal letter filed with the original papers was for a utility application and cited 37 CFR 1.53(b).

Petitioners concede that an incorrect transmittal letter was mailed, but argue that "using the incorrect PTO submittal form upon filing was inadvertent and was the sole

cause of the entire unintentional delay in requesting that this application be processed as a national stage application filing under 35 U.S.C. 371."

This is treated as a petition to convert under 37 CFR 1.182. The $400.00 fee has been charged to Deposit Account No. 22-0212 as authorized.

U.S. Statutes and Regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will **only** grant such petitions upon a showing by applicant of sufficient cause (*e.g.*, the loss of patent rights) where **no** other remedy is available.

Petitioners have made no such showing. Accordingly, the petition under 37 CFR 1.182 is **DISMISSED**.

Petition Under 37 CFR 1.78

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). As such, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(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.

Here, the surcharge fee required by 37 CFR 1.17(t) has been submitted.[1] As such, item (2) is satisfied.

However, the petition does not comply with items (1) and (3) above. 37 CFR

[1] The petition fee required under 37 CFR 1.78(a)(3) is $1,370.00 (Fee Code 1454). The Office erroneously charged $1,500.00. Any excess fee paid has been credited to Deposit Account No. 22-0212 as authorized.

1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number, or international application number and international filing date) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* § 201.11 MPEP, Rev. 2, May 2004, Reference to Prior Application.

The amendment filed June 29, 2005 fails to state the relationship of the prior filed international application filed on January 18, 2001 to the instant application. Moreover, the international application is identified using the WIPO publication number. This is not acceptable. Applicants must use the international application number. *See* 37 CFR 1.78(a)(3).

Furthermore, applicants failed to provide the required 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.

For these reasons, applicants' petition under 37 CFR 1.78(a)(3) is **DISMISSED** without prejudice.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship and international application number of the prior-filed application to the instant application is required. Applicants must also provide 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.

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
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2007

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction on Patent No.: **7162904 B2 – 10/201455**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE — **Art Unit** 3725

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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NOV 12 2002

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of
Flynn et al.
Application No. 10/201,484
Filed: July 8, 2002
Attorney Docket No.: 1817-0129P

ON PETITION

This is a decision on the petition filed September 30, 2002, requesting that the above-identified application be accorded a filing date of July 8, 2002 with figure 1 as part of the original application disclosure.

The application was filed on July 8, 2002. However, on August 28, 2002, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of July 8, 2002 and advising applicant that figure 1 described in the specification appeared to have been omitted. The Notice also informed applicant an oath or declaration along with the late filing fee of $130.00 was required.

In response, applicant provided an executed declaration and the late fee on September 9, 2002. The present petition was filed on September 30, 2002 wherein petitioner contends figure 1 was filed July 8, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists "18 sheets of formal drawings". The petition is further accompanied by a substitute drawing of figure 1.

Applicant's postcard receipt is prima facie evidence that 18 sheets of formal drawings with figure 1 were received on July 8, 2002, but figure 1 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figure 1 was received on July 9, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted.

Since the original figure 1 cannot be located in the Office, figure 1 supplied on September 30, 2002, will be used for processing and examination purposes.

The petition fee will be refunded.

The $130.00 petition fee is being refunded to deposit account 02-2448.

The application will then be returned to the Office of Initial Patent Examination for further processing with a filing date of July 8, 2002, using the 1 sheet of substitute drawing including figure 1 supplied on September 30, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

Gene Scott
Patent Law & Venture Group ITTT
3151 Airway Ave., Suite K 105
Costa Mesa, CA 92626

MAILED

AUG 22 2003

OFFICE OF DIRECTOR
GROUP

In re Application of	:	
John B. Squicciarini	:	
Application No.: 10/201,487	:	DECISION ON REQUEST TO
Filed: July 22, 2002	:	WITHDRAW FROM RECORD
For: CABLE SYSTEMS FOR TRANSMITTING	:	
LIGHT IN LATERAL DIRECTIONS	:	

This is a decision on the request filed by Gene Scott to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed via facsimile transmission on June 12, 2003.

The request is **APPROVED** for Mr. Scott who was the only attorney 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 Diopco, LLC at the address provided below unless otherwise notified by applicant.

All inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Diopco, LLC
42714 Woodward Avenue
Bloomfield Hills, CA 48304-5061

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ALEXANDRIA, VA 22313-1450
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Pillsbury Winthrop LLP
11682 El Camino Real, Suite 200
San Diego, CA 92130-2092

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Michael J. Coghlan
Application No. 10/201,524
Filed: July 23, 2002
Attorney Docket No. 1540.003US2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 25, 2005.

The petition is GRANTED.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before March 2, 2005. This decision precedes the mailing of a Notice of Abandonment.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Suzanne L. Biggs appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

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 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, 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.

This matter is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of	:
Moore	: DECISION ON APPLICATION
Application No. 10/201,525	: FOR PATENT TERM ADJUSTMENT
Filed: July 22, 2002	:
Atty. Dkt. No.: 5827.005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 9, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 499 days, as indicated on the Determination of Patent Term Adjustment mailed October 6, 2005, to an adjustment of 524 days. Applicants specifically argue that the 25 day reduction in connection with the response to election/restriction requirement filed April 11, 2005 is in error.

A review of the application history reveals that as of the time of allowance, an adjustment of 527 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) 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.

Applicant's argument that the response submitted April 11, 2005 was timely within the meaning of 37 CFR 1.704(b) has been considered but found unconvincing. The response submitted April 11, 2005 which results in a 25 day reduction is a reduction pursuant to the provisions of 37 CFR 1.704(c)(7), i.e., a reply having an omission.

Applicant's response submitted March 17, 2005 failed to comply with the provisions of 37 CFR 1.121, as indicated in the Notice mailed March 30, 2005. Accordingly, the adjustment of 527 day is reduced 25 days in accordance with 37 CFR 1.704(c)(7). The reduction began March 18, 2005, the day after the date that the response having an

omission was filed, and ended April 11, 2005, the date a compliant reply was submitted.

The adjustment of 527 days is further reduced three days in accordance with 37 CFR 1.704(b) in connection with the reply filed August 15, 2005 in response to the non-final Office action mailed May 12, 2005. The reduction began August 13, 2005, the day after the date that is three months after the date the non-final Office action was mailed, and ended August 15, 2005, the date the reply was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 499 days, as indicated in the Determination of Patent Term Adjustment.

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

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.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

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APR 2 1 2003

OFFICE OF PETITIONS

PATENT METRIX, LLC
14252 CULVER DR. #914
IRVINE, CA 92604

In re Application of Le, et al. Application No. 10/201,543 Filed: July 23, 2002 Atty. Dkt. No.: RAP-101.ORD For: SELF-CONTAINED, PORTABLE INSPECTION SYSTEM AND METHOD	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed March 4, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that inventor Khai Le 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.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: THEODORE S. MACEIKO
555 W. FIFTH STREET, SUITE 4600
LOS ANGELES, CA 90013

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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KWAI LE
5071 AUDREY DRIVE
HUNTINGTON DRIVE, CA 92649

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APR 2 1 2003

OFFICE OF PETITIONS

In re Application of Le, et al. Application No. 10/201,543 Filed: July 23, 2002 Atty. Dkt. No.: RAP-101.ORD For: SELF-CONTAINED, PORTABLE INSPECTION SYSTEM AND METHOD	: : : : : : :	LETTER

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HIRANO et al.	Atty. Dkt.: 01-318
Serial No.: 10/201,556	Group Art Unit: 2912
Filed: July 24, 2002	Examiner: Unknown
Title: TRANSFER-MOLDED POWER DEVICE AND METHOD FOR MANUFACTURING TRANSFER-MOLDED POWER DEVICE	

OIPE JC184 SEP 25 2002 PATENT & TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

Date: September 25, 2002

CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand delivered to and deposited with the USPTO at the Customer Service Window, Office of Initial Patent Examination, Crystal Plaza Building 2, Room 1B03, 2011 South Clark Place, Arlington, VA 22202 on September 25, 2002.

Typed Name: DAVID G. POSZ

Signature: _____

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: Box Missing Parts

Sir:

This is in response to a Notice to File Missing Parts of Nonprovisional Application mailed on August 23, 2002 in connection with the above application. Enclosed is a copy of said Notice, as well as the following documents and fees required to complete the filing requirements of the above application.

- Executed Declaration and Power of Attorney. The above-identified application is the same application the inventors executed by signing the enclosed declaration
- Executed Assignment and Recordation Cover Sheet
- A check in the amount of $1114 to cover the following fees:
    - Statutory filing fee of $740;
    - Assignment Recordation Fee of $40;
    - 2 Additional Total Claim Fee of $36;
    - 2 Additional Independent Claim Fee of $168; and
    - Missing parts surcharge of $130.

It is respectfully requested that any additional fees be charged to Deposit Account 50-1147.

Law Offices of David G. Posz
2000 L Street, N.W.,
Suite 200
Washington, D.C. 20036
(202) 416-1638

Respectfully submitted,

David G. Posz
Reg. No. 37,701
Customer No. 23400

This Form Based on PTO/SB/21

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

OIPE JC184 SEP 2 5 2002 PATENT & TRADEMARK OFFICE

Application Number	10/201,556
Filing Date	July 24, 2002
First Named Inventor	HIRANO et al.
Group Art Unit	2912
Examiner Name	
Attorney Docket Number	01-318

ENCLOSURES ***(check all that apply)***

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [X] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [X] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] To Convert a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Small Entity Statement
- [ ] Request of Refund
- [ ] 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] Additional Enclosure(s) *(please identify below):*
  - Declaration and Power of Attorney

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	**Law Offices of David G. Posz**
Signature	
Date	September 25, 2002

CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand delivered to and deposited with the Office of Initial Patent Examination at the United States Patent Office on the date indicated below and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

Type or printed name	David G. Posz		
Signature		Date	September 25, 2002

This Form Based on PTO/SB/21

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

OIPE JC184 SEP 2 5 2002 PATENT & TRADEMARK OFFICE

Application Number	10/201,556
Filing Date	July 24, 2002
First Named Inventor	HIRANO et al.
Group Art Unit	2912
Examiner Name	
Attorney Docket Number	01-318

ENCLOSURES ***(check all that apply)***

[X] Fee Transmittal Form	[X] Assignment Papers *(for an Application)*	[ ] After Allowance Communication to Group
[X] Fee Attached	[ ] Drawing(s)	[ ] Appeal Communication to Board of Appeals and Interferences
[ ] Amendment / Response	[ ] Licensing-related Papers	[ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
[ ] After Final	[ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition	[ ] Proprietary Information
[ ] Affidavits/declaration(s)	[ ] To Convert a Provisional Application	[ ] Status Letter
[ ] Extension of Time Request	[ ] Power of Attorney, Revocation Change of Correspondence Address	[X] Additional Enclosure(s) *(please identify below):*
[ ] Express Abandonment Request	[ ] Terminal Disclaimer	Declaration and Power of Attorney
[ ] Information Disclosure Statement	[ ] Small Entity Statement	
[ ] Certified Copy of Priority Document(s)	[ ] Request of Refund	
[X] Response to Missing Parts/ Incomplete Application	Remarks	
[ ] Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	**Law Offices of David G. Posz**
Signature	
Date	September 25, 2002

CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand delivered to and deposited with the Office of Initial Patent Examination at the United States Patent Office on the date indicated below and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

Type or printed name	David G. Posz		
Signature		Date	September 25, 2002

(3)

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/201,556	07/24/2002	Hirano	01-318

CONFIRMATION NO. 6652

FORMALITIES LETTER

OC000000008676359

23400
LAW OFFICES OF DAVID G. POSZ
2000 L STREET, N.W.
SUITE 200
WASHINGTON, DC 20036

OIPE JC184
SEP 2 5 2002
PATENT & TRADEMARK OFFICE

Date Mailed: 08/23/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

09/27/2002 ADSMAN1 00000011 10201556

01 FC:101	740.00 OP	
02 FC:102	168.00 OP	
03 FC:103	36.00 OP	
04 FC:105	130.00 OP	

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  *Applicant must submit $ **740** to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of **$204** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1074** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$204**
  - **$36** for **2** total claims over 20.
  - **$168** for **2** independent claims over 3.

A copy of this notice MUST be returned with the reply.

Alice Mishni

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC184
SEP 2 5 2002
PATENT & TRADEMARK OFFICE

PTO/SB/17 (10-01)
Approved for use through 10/31/2002. OMB 0651-0032
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.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 1114

Complete if Known	
Application Number	10/201,556
Filing Date	July 24, 2002
First Named Inventor	HIRANO et al.
Examiner Name	
Group/Art Unit	2912
Attorney Docket No.	01-318

METHOD OF PAYMENT (check one)

1. [ ] The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 50-1147

Deposit Account Name: LAW OFFICES OF DAVID G. POSZ

[X] Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

2. [X] Payment Enclosed:

[X] Check [ ] Money Order [ ] Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	740
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) ($) 740

2. EXTRA CLAIM FEES

			Extra Claims		Fee from Below		Fee Paid
Total Claims	22	-20**=	2	x	18	=	36
Independent Claims	5	- 3**=	2	x	84	=	168
Multiple Dependent						=	

**or number previously paid, if greater; For Reissues, see below*

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 204

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge – late filing fee or oath	130
127	50	227	25	Surcharge – late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1440	218	720	Extension for reply within fourth month	
128	1960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40
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))	

Other fee (specify) _____

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 170

SUBMITTED BY			Complete (if applicable)	
Name (Print/Type)	DAVID G. POSZ	Registration No. (Attorney/Agent) 37,701	Telephone	(202) 416-1638
Signature			Date	9.25.02

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant commissioner for Patents, Washington, DC 20231.

OIPE JC184
SEP 2 5 2002
PATENT & TRADEMARK OFFICE

PTO/SB/17 (10-01)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 1114

Complete if Known	
Application Number	10/201,556
Filing Date	July 24, 2002
First Named Inventor	HIRANO et al.
Examiner Name	
Group/Art Unit	2912
Attorney Docket No.	01-318

METHOD OF PAYMENT (check one)

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 50-1147

Deposit Account Name: LAW OFFICES OF DAVID G. POSZ

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

2. ☒ Payment Enclosed:

☒ Check ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
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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) ($) 740

2. EXTRA CLAIM FEES

			Extra Claims		Fee from Below		Fee Paid
Total Claims	22	-20**=	2	x	18	=	36
Independent Claims	5	- 3**=	2	x	84	=	168
Multiple Dependent						=	

***or number previously paid, if greater; For Reissues, see below*

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
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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) ($) 204

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge – late filing fee or oath	130
127	50	227	25	Surcharge – late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
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112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
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117	920	217	460	Extension for reply within third month	
118	1440	218	720	Extension for reply within fourth month	
128	1960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40
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))	

Other fee (specify) _____

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 170

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	DAVID G. POSZ	Registration No. (Attorney/Agent)	37,701	Telephone	(202) 416-1638
Signature				Date	9.25.02

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant commissioner for Patents, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIEHL SERVILLA LLC
77 BRANT AVE
SUITE 210
CLARK NJ 07066

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Application of
CRAIG THORNER.
Application No. 10/201,584
Filed: July 23, 2002
Attorney Docket No. **THO0005-03CP**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed February 19, 2010 and supplemented April 29, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Glen M Diehl on behalf of all attorneys of record who are associated with Customer Number 48394.

All attorneys/agents associated with Customer Number 48394 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Craig Thorner at the address list listed in the request.

There is an outstanding Office action mailed April 9, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Craig Thorner
14 Stuyvesant Road
Brick, NJ 08723

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

Kristofer E. Elbing
187 Pelham Island Road
Wayland MA 01778

COPY MAILED

AUG 22 2003

OFFICE OF PETITIONS

In re Application of :
Jin et al. :
Application No. 10/201,586 :
Filed: July 22, 2002 :
Attorney Docket No. F0002-011002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed September 3, 2002, which set a two-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on November 4, 2002. The present petition precedes the mailing of a Notice of Abandonment.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The petition fee, filing fee, surcharge, and additional claims fee, totaling $1,112.00, will be charged to Deposit Account No. 50-0750, as authorized in the petition.

The file is being forwarded to Technology Center AU 3625.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

Kristofer E. Elbing
187 Pelham Island Road
Wayland MA 01778

COPY MAILED

AUG 26 2003

OFFICE OF PETITIONS

In re Application of :
Jin et al. :
Application No. 10/201,586 :
Filed: July 22, 2002 :
Attorney Docket No. F0002-011002 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed September 3, 2002, which set a two-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on November 4, 2002. The present petition precedes the mailing of a Notice of Abandonment.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The petition fee, filing fee, surcharge, and additional claims fee, totaling $1,117.00, will be charged to Deposit Account No. 50-0750, as authorized in the petition.

The file is being forwarded to Technology Center AU 3625.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 10 2005

MAILED

JAN 10 2005

OFFICE OF THE DIRECTOR
TC 3600

KRISTOFER E. ELBING
187 Pelham Island Road
Wayland, MA 01778

In re application of:
Hua-Ming Jin et al.
Application No. 10/201,586 :
Filed: July 22, 2002 :
For: AUTOMATED LISTING MANAGEMENT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 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 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 and the attorneys associated with Customer Number 08791, do not now have, and apparently never have had, power of attorney in this application.

Further, as to item B), the reason "Discontinuation of the attorney/client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 12/28/04

CC: TAREK N. FAHMI
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

CC: ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
121 South Eighth Street
Minneapolis, MN 55402

UNITED STATES 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 08-03

Paper No. 9

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

COPY MAILED

AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Stevenson et al.	:	
Application No. 10/201,588	:	ON PETITION
Filed: 22 July, 2002	:	
Attorney Docket No. ADY-004	:	

This is a decision on the petition under 37 CFR 1.182, filed on 12 February, 2003, to correct the first name of the second named inventor.

The petition is **GRANTED**.

Petitioners request that the second named inventor's first name be corrected from "Harrison" to -- HARRY --.

The change has been noted in the official file. A corrected filing receipt is attached.

The application is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-07

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/201602 Patent No.: 6870191

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check claims.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Yoon

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: The Certificate of Correction filed on 5/6/05 is acceptable and approved.

Stan Lohe — SPE

2818 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090617

DATE : 1-13-09

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/201600 Patent No.: 6870191

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Please check claims filed 12-5-08

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Steven Loke
SPE

2818
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. 7

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

COPY MAILED

MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of Butterworth et al. Application No. 10/201,617 Filed: July 22, 2002 Attorney Docket No. EDSO-001/00US	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 14, 2003, which is being treated asa 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 16, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 8, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2126 for examination in due course.

Any inquiries concerning this decision may 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

In re Application of Clarkin, et al. Application No. 10/201,624 Filed: July 24, 2002 Atty. Dkt. No.: P 295013 Title:CONNECTOR FERRULE AND METHOD OF SEALING	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed January 28, 2003.

Petitioner has shown that inventor Michael Swengler has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

MICHAEL SWENGLER
P.O. BOX 38153
PHOENIX, AZ 85069

In re Application of
Clarkin, et al.
Application No. 10/201,624
Filed: July 24, 2002
Atty. Dkt. No.: P 295013
Title:CONNECTOR FERRULE AND METHOD OF SEALING

LETTER

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAY 10 2007

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of
Adel Belcaid, et al.
Application No.: 10/201,627
Filed: July 24, 2002
Attorney Docket No.: P 292963/2000001US/HS/KOP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 18, 2007.

The application became abandoned for failure to pay the issue fee on or before October 13, 2006. A Notice of Abandonment was subsequently mailed on December 11, 2006. In response, on January 18, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTINE H. MCCARTHY
PILLSBURY WINTHROP SHAW PITTMAN, LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102-4859

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED
JUL 2 6 2004
OFFICE OF PETITIONS

In re Application of :
David C. Janssen, et al. :
Application No. 10/201,633 : ON PETITION
Filed: July 23, 2002 :
Attorney Docket No. 87801-9067-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 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. An office communication was mailed August 6, 2003 indicating that a reply filed on May 29, 2003 was not fully responsive to the prior Office Action. Since the above mentioned reply appeared to be *bona fide,* petitioner was given a time period of one (1) month or thirty (30) days from the mailing date of the notice, whichever is longer, within to supply the omission or correction in order to avoid abandonment. Accordingly, the application became abandoned on September 8, 2003.

The application matter is being forwarded to Technology Center 3600, Art Unit 3611 for consideration of the Amendment and the Petition filed under 37 CFR 1.48(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Eric T. Fossel	: DECISION ON REQUEST FOR
Patent Number	: 7629384	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/201,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **833** 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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MAY 2 2 2003

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of
Bayassi et al.
Application No. 10/201,641
Filed: July 24, 2002
Attorney Docket
No.1581.0350005/MBR/CDS/TAD
Title of Invention: BROADCAST AND RECEPTION, AND CONDITIONAL ACCESS SYSTEM THEREFOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 28, 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 24, 2002, without a oath or declaration. Accordingly, on September 26, 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 November 26, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration. To make the reply timely, a five month extension of time was also submitted. In support of the petition, applicants submitted a Statement of Facts made by Philippe Cassagne with accompanying exhibits in French. Pursuant to petitioner's request deposit account 19-0036 has been charged the $130.00 petition fee.

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 inventor refused to sign the declaration after having been presented with the application papers. The Declaration of Philippe Cassagne only indicates the declaration, power of attorney, and assignment documents were forwarded to inventor De La Tullaye. The declaration of Cassagne does not indicate the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventor. See MPEP 409.03(d). 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).

Furthermore, the documents submitted with the petition to establish inventor De La Tullaye refused to execute the application papers are in French. A review of the documents submitted shows English translation of the documents has not been provided. Thus, the exhibits provided do not aid rule 47 applicant in establishing the alleged refusal.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63. The declaration provided refers to a PCT application that was filed on April 25, 1997 not to a U.S. filed Continuation Application. A declaration which identifies a U.S. Application is required. See 37 CFR 1.63 (d)(1). Secondly, although rule 47 applicant provided the last known address of Inventor De La Tullaye 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:	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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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DEC 03 2003

OFFICE OF PETITIONS

In re Application of
Mulham Bayassi, Pierre De La Tullaye and Jean-Francois Jezequel.
Application No. 10/201,641
Filed: July 24, 2002
Attorney Docket Number: 2182.0350005
Title of Invention: BROADCAST AND RECEPTION, AND CONDITIONAL ACCESS SYSTEM THEREFOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 24, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The correspondence non-signing inventor De La Tullaye sent in response to 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
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Pierre DE LA Tullaye
7 Allee Marcel Jouhandeau
Rueil Malmaison
France

In re Application of
Mulham Bayassi, Pierre DE LA Tullaye and
Jean-Francois Jezequel.
Application No. 10/201,641
Filed: July 24, 2002
Attorney Docket Number: 2182.0350005
Title of Invention: BROADCAST AND RECEPTION, AND CONDITIONAL ACCESS SYSTEM THEREFOR

LETTER

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OFFICE OF PETITIONS

Dear Mr. DE LA Tullaye:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Michael B. Ray
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Mulham Bayassi	: DECISION ON REQUEST FOR
Patent Number	: 7644429	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/201,641	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1542** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 6

PERKINS COIE LLP
PO BOX 2168
MENLO PARK, CA 94026-2168

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OFFICE OF PETITIONS

In re Application of
Amiotti
Application No. 10/201,657
Filed: July 19, 2002
Attorney Docket No. 59183-8054.US01

ON PETITION

This decision concerns the January 27, 2003 petition under 37 CFR 1.10, which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of July 10, 2002 rather than the presently accorded filing date of July 22, 2002, on the basis that the application was deposited on July 19, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EI898333996US" and containing a USPS "date-in" as well as a date-stamp of July 19, 2002. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. The petition is thus granted.

No petition fee is owed. The $130 charged to Deposit Account No. 50-2283 has been reversed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to July 19, 2002, and for mailing a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PERKINS COIE LLP
PO BOX 2168
MENLO PARK, CA 94026-2168

In re Application of
Amiotti
Application No. 10/201,657
Filed: July 19, 2002
Attorney Docket No. 59183-8054.US01

LETTER TRANSMITTING
CORRECTED DECISION

On August 18, 2003, a decision was mailed granting the January 27, 2003 petition for a July 19, 2002 filing date. The first sentence of the decision indicates that petitioner requests a filing date of July 10, 2002, which is a typographical error and should have been July 19, 2002.

A corrected decision is attached.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Decision correcting typographical error

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6
(corrected)

PERKINS COIE LLP
PO BOX 2168
MENLO PARK, CA 94026-2168

In re Application of Amiotti Application No. 10/201,657 Filed: July 19, 2002 Attorney Docket No. 59183-8054.US01	: : : : :	ON PETITION

This decision concerns the January 27, 2003 petition under 37 CFR 1.10, which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of July 19, 2002 rather than the presently accorded filing date of July 22, 2002, on the basis that the application was deposited on July 19, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EI898333996US" and containing a USPS "date-in" as well as a date-stamp of July 19, 2002. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. The petition is thus granted.

No petition fee is owed. The $130 charged to Deposit Account No. 50-2283 has been reversed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to July 19, 2002, and for mailing a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

PALM INTRANET

Day : Monday
Date: 9/8/2003
Time: 05:54:32

Application Number Information

Application Number: **10/201657**
Assignments
Filing Date: **07/19/2002**
Effective Date: **07/19/2002**
Application Received: **07/25/2002**
Pat. Num./Pub. Num: **/20030052392**
Issue Date: **00/00/0000**
Date of Abandonment: **00/00/0000**
Attorney Docket Number: **59183-8054.US01**
Status: **30 /DOCKETED NEW CASE - READY FOR EXAMINATION**
Confirmation Number: **3844**

Examiner Number: **68481 / POTTER, ROY**
Group Art Unit: **2822**
Class/Subclass: **257/682.000**
Lost Case: **NO**
Interference Number:
Unmatched Petition: **NO**
L&R Code: Secrecy Code:**1**
Third Level Review: **NO**
Secrecy Order: **NO**
Status Date: **08/12/2003**
Oral Hearing: **NO**

Title of Invention: **SUPPORT FOR MICROELECTRONIC, MICROOPTOELECTRONIC OR MICROMECHANICAL DEVICES**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location
10201657	0480	09/05/2003	No Charge to Location	No Charge to Name	STEPHANOS,MENBE	

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity Data | Foreign Data | Inve

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OFFICE OF PETITIONS

PERKINS COIE LLP
PO BOX 2168
MENLO PARK, CA 94026-2168

In re Application of
Amiotti
Application No. 10/201,657
Filed: July 19, 2002
Attorney Docket No. 59183-8054.US01

LETTER TRANSMITTING
CORRECTED DECISION

On August 18, 2003, a decision was mailed granting the January 27, 2003 petition for a July 19, 2002 filing date. The first sentence of the decision indicates that petitioner requests a filing date of July 10, 2002, which is a typographical error and should have been July 19, 2002.

A corrected decision is attached.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Decision correcting typographical error

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Paper No. 6
(corrected)

PERKINS COIE LLP
PO BOX 2168
MENLO PARK, CA 94026-2168

In re Application of Amiotti Application No. 10/201,657 Filed: July 19, 2002 Attorney Docket No. 59183-8054.US01	: : : : :	ON PETITION

This decision concerns the January 27, 2003 petition under 37 CFR 1.10, which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of July 19, 2002 rather than the presently accorded filing date of July 22, 2002, on the basis that the application was deposited on July 19, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EI898333996US" and containing a USPS "date-in" as well as a date-stamp of July 19, 2002. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. The petition is thus granted.

No petition fee is owed. The $130 charged to Deposit Account No. 50-2283 has been reversed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to July 19, 2002, and for mailing a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-16-08

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No. 10/201680 Patent No.: 7445891

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should these drawings be entered?

E James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: SEQ ID No. 1, on page 2, last line, of the "amendments to the specification" filed October 14, 2008, is incorrect. The SEQ ID NO. for this sequence is actually SEQ ID No. 18. Everything else is okay.

The replacement drawings for Figures 2, 4, and 6 are okay and should be allowed to be entered. Original support is in the provisional application (60/307,275).

/James Douglas Schultz / — **SPE**

1635 — **Art Unit**

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Robert F. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Boulevard
Tampa, FL 33606

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OFFICE OF PETITIONS

In re Application of	:
Walters, et al.	: DECISION GRANTING PETITION
Application No. 10/201,703	: UNDER 37 CFR 1.137(b)
Filed: July 22, 2003	:
Atty. Dkt. No.: 2002-0081	:

This decision is in response to the petition under 37 CFR 1.137(b), filed August 8, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the Notice of Allowance mailed November 15, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed April 14, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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Lester J. Vincent
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Mail Date: 04/21/2010

Applicant	: Peter M. Killcommons	: DECISION ON REQUEST FOR
Patent Number	: 7606861	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/201,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1360** 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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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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OFFICE OF PETITIONS

In re Application of :
Cubb et al. :
Application No. 10/201,738 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. Laryngoscope with :
Multi-Directional Eyepiece

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 18, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to Informality Re Payment of Fee mailed June 13, 2003 (Notice), which set a shortened period for reply of one (1) month. Accordingly, the above-identified application became abandoned on July 14, 2003. A Notice of Abandonment was mailed June 20, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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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 711.03(c)(III)(C) and (D).

The instant petition lacks item (3). It is unclear whether the entire delay was unintentional. The document entitled "Response to Notice of Fee Deficiency" submitted on March 26, 2004 stated that the "notice was sent to Anthony Cubb and was believed to be ignored." In view of such, it is unclear whether Mr. Cubb had the intention to reply **or** deliberately chose not to ignore the Notice. A statement from *both* of the inventors clarifying the above situation should be submitted.

The missing fees have been collected. However, the amount of the fee is determined when paid in full. Accordingly, a total of $100.00 was collected from petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of	:	
Cubb et al.	:	
Application No. 10/201,738	:	ON PETITION
Filed: July 24, 2002	:	
Title: LARYNGOSCOPE WITH MULTI-DIRECTIONAL EYEPIECE	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 3700 for further examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions