UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

COPY MAILED

FEB 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Gerard Cappiello, et al. :
Application No. 10/201,742 :
Filed: July 23, 2002 :
Attorney Docket No. A02088US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 16, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 23, 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. The projected publication date is April 1, 2004.

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

This application is being forwarded to Technology Center Art Unit 3763 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Alain ROSSMANN, et al.	:	
Application No. 10/201,756	:	DECISION ON PETITION
Filed: July 22, 2002	:	TO WITHDRAW
Attorney Docket No. PA2901US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

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

A review of the file record indicates that the power of attorney to Susan Yee of CARR & FERRELL LLP has been revoked by the assignee of the patent application on March 7, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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

AUTOMOTIVE COMPONENTS HOLDINGS LLC
C/O MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1853

Mail Date: 04/21/2010

Applicant	: Michael W. Hopson	: DECISION ON REQUEST FOR
Patent Number	: 7607984	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/201,757	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1877** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : July 28, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hideki Matsuda
Application No. :10/201,775
Filed :July 25, 2002

The above-identified application has been assigned Patent No. 6,924,818 and an issue date of August 2, 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 August 2, 2005:

"All reference to Patent No. 6,924,818 to Hideki Matsuda of Japan for ENVIRONMENT-COMPLIANT IMAGE DISPLAY SYSTEM, PROJECTOR, AND PROGRAM appearing in the Official Gazette of August 2, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Hideki Matsuda :
Application No. 10/201,775 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 110228.01 :

This is a decision on the petition, filed July 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 March 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2676 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL L. GENCARELLA
MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE, #170
SUNNYVALE, CA 94085

COPY MAILED
MAY 17 2004
OFFICE OF PETITIONS

In re Application of :
Woo, et al. :
Application No. 10/201,810 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. ALTEP027 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2004, 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 January 6, 2004. Accordingly, this application became abandoned on January 7, 2004. A Notice of Abandonment was mailed on February 23, 2004.

This application is being forwarded to Publishing Division.

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

MAIL

OCT 31 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 34

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of: WILLIAM DUARTE FERRAZ ET AL. Application No.: 10/201826 Filed: July 24, 2002 For: **CONTROL SYSTEMS AND METHODS FOR TRANSLATING CODE FROM ONE FORMAT INTO ANOTHER FORMAT**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed July 24, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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.

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

(1) The references which can be submitted are only those deemed **most closely related** to the claimed subject matter. Petitioner is required to make of record that the submitted references be "deemed **most closely related** to the subject matter encompassed by the claims."

(2) Petitioner's submission does not provide a **detailed** discussion of the references, which points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references. There are two independent claims and fifty dependent claims, but Petitioner's submission does not even discuss one.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

BL LeDynh

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

UNITED STATES 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

MAR - 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

GARY ABELEV
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK, NY 10177

In re Application of: Ferraz, et al.
Application No. 10/201,826
Filed: July 24, 2002
For: CONTROL SYSTEMS AND METHODS FOR TRANSLATING CODE FROM ONE FORMAT INTO ANOTHER FORMAT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed December 15, 2003 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on July 24, 2003 and dismissed on October 31, 2003.

The Petition is **GRANTED**.

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

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met. The delay in responding to this request for reconsideration is regretted.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

BLJ: 3/8/05

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

COPY MAILED

APR 04 2003

OFFICE OF PETITIONS

OPPEDAHL AND LARSON LLP
P.O. BOX 5068
DILLON, CO 80435-5068

In re Application of
Eriksson, et al.
Reissue Application No. 10/201,829
Filed: July 23, 2002
Atty. Dkt. No.: GOTE.P-047
For: METHOD AND ARRANGEMENT RELATING TO AN X-RAY IMAGING APPARATUS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 4, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Rolf Eriksson 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.

The last known address of the non-signing inventor is presumed to be that identified in the declaration accompanying the instant petition. If this presumption is incorrect, petitioner is required to notify the Office.

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

ROLF ERIKSSON
MORKVIKSVAGEN 6
OREBRO 702 29
SWEDEN

COPY MAILED

APR 04 2003

OFFICE OF PETITIONS

In re Application of
Eriksson, et al.
Reissue Application No. 10/201,829
Filed: July 23, 2002
Atty. Dkt. No.: GOTE.P-047
For: METHOD AND ARRANGEMENT RELATING TO AN X-RAY IMAGING APPARATUS

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

HARNESS DICKEY & PIERCE, PLC
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

COPY MAILED

DEC 29 2003

OFFICE OF PETITIONS

In re Application of :
Jeff Buchko :
Application No. 10/201,841 : NOTICE
Filed: July 24, 2002 :
Attorney Docket No. 104777-1 :

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 (703) 305-9285.

This file is being forwarded to Technology Center AU 3671.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070730

DATE : July 30, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,756,384 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:
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:

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Joseph McKane **Art Unit** 1626

UNITED STATES 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 A. Piccionelli
Brull Piccionelli Sarno Braun & Vradenburgh
Suite 2350
1925 Century Park East
Los Angeles, CA 90067

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

In re Application of Gregory A. Picconelli Application No. 10/201,884 Filed: July 24, 2002 Attorney Docket No. 39003.804US01	: : : : :	ON PETITION

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

The application became abandoned for failure to reply to the final Office action mailed July 27, 2006. A Notice of Abandonment was mailed March 12, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

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. 11/784,218.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL - 6 2005

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

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

In re Application of Steve Kramer Serial No. : 10/202,000 Filed : July 25, 2002 For : CMP Pad Having Isolated Pockets of Continuous Porosity and Method for Using Such Pad	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request received January 12, 2005 to review the holding of abandonment mailed December 17, 2004 for failure to respond to file a response to the Office action mailed April 30, 2004. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included an amendment along with formal drawings, and a copy of a PTO stamped post card receipt dated July 30, 2004 as evidence of the timely filing of the response. It is noted that the communication of July 30, 2004 did not include the proper Serial Number. However, the communication included sufficient additional information that should have resulted in the matching of the papers with the correct file.

In view of the above, the Notice of Abandonment mailed December 17, 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 July 30, 2004.

Summary: Holding of Abandonment Withdrawn.

Frederick R. Schmidt, Director
Technology Center 3700

ak/06/29/05

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

COPY MAILED

FEB 01 2006

OFFICE OF PETITIONS

BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG, VA 23188

In re Patent No. 6,940,952	:	
Issued: September 6, 2005	:	
Application No. 10/202,005	:	PATENT TERM ADJUSTMENT
Filed: July 25, 2002	:	
Atty. Dkt. No.: BS01-496	:	

This is a decision on the "QUERY RE PATENT TERM ADJUSTMENT," filed November 4, 2005. This matter is being treated as a timely filed application for patent term adjustment under 37 C.F.R. § 1.705(d).

Applicants request that the patent term adjustment be corrected from zero days as indicated on the patent to an adjustment of 290 days.

The instant application for patent term adjustment lacks the required application fee, currently, $200.00. In accordance with 37 CFR 1.705(d), an application for patent term adjustment must be accompanied by the required $200.00 application fee. While the instant application for patent term adjustment references the submission of a credit card payment form, no such form appears to have been submitted.

Accordingly, the instant request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within one month of the mail date indicated above and must include evidence to establish prior receipt of the required application fee. Extensions of time under 37 CFR 1.136 are not permitted.

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

Nancy Johnson for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG VA 23188

COPY MAILED
NOV 14 2006
OFFICE OF PETITIONS

In re Patent No. 6,940,952	:	
Issued: September 6, 2005	:	
Application No. 10/202,005	:	PATENT TERM ADJUSTMENT
Filed: July 25, 2002	:	
Dkt. No.: BS01-496	:	

This is a decision on the "PROOF OF PAYMENT IN RESPONSE TO FEBRUUARY 1, 2006 QUERY OF PATENT TERM ADJUSTMENT," filed March 20, 2006.

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

The above-identified application matured into U.S. Patent No. 6,940,952 on September 6, 2005. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of zero days. Patentees argue that the application is entitled to an adjustment of 290 days and that there was no was failure to engage in reasonable efforts to conclude prosecution by applicants.

A review of the application history reveals that an adjustment of 61 days under 37 CFR 1.702(a)(1) and 1.703(a)(2) can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

A further adjustment of 171 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 the date of receipt of the issue fee payment. The adjustment began March 20, 2004, the day after the date that is four months after the date that the issue fee payment was received, and ended September 6, 2005, the date the patent issued. *See*, 37 CFR 1.703(a)(6).

Thus, the adjustment totaling 232 days (171 days + 61 days) is properly reduced 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the drawings submitted October 18, 2004.

Submission of drawings after Notice of Allowance has been given or mailed is deemed a failure to engage in reasonable efforts to conclude prosecution. *See*, MPEP 2732 and *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001)

In view thereof, at the time of issuance, the application was entitled to a patent term adjustment of 112 days (232 days - 120 days).

The required fee of $200.00 for an application for patent term adjustment has been charged to the credit card indicated on Form PTO-2038.

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 112 days.

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

Kery A Fries

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

Enclosure: Draft Certificate of Correction

Day : Tuesday
Date: 11/14/2006

PALM INTRANET

Time: 11:46:29

PTA Calculations for Application: 10/202005			
Application Filing Date:	07/25/2002	PTO Delay (PTO):	61
Issue Date of Patent:	09/06/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	112
PTO Delay Adjustment:	171		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	11/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	171		
41.5	08/17/2005	PTA 36 MONTHS			
41	09/06/2005	PATENT ISSUE DATE USED IN PTA CALCULATION			
40	08/12/2005	RECEIPT INTO PUBS			
39	08/11/2005	DISPATCH TO FDC			
38	07/06/2005	ISSUE FEE PAYMENT VERIFIED			
37	08/11/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
36	10/18/2004	WORKFLOW - DRAWINGS FINISHED		120	
35	11/19/2004	ISSUE FEE PAYMENT VERIFIED			
34	09/24/2004	EXPORT TO INITIAL DATA CAPTURE			
33	11/19/2004	ISSUE FEE PAYMENT RECEIVED			
26	10/27/2004	RECEIPT INTO PUBS			
25	09/28/2004	RECEIPT INTO PUBS			
24	09/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
23	09/17/2004	MAIL NOTICE OF ALLOWANCE			
22	09/17/2004	MAIL FORMAL DRAWINGS REQUIRED			
21	09/08/2004	ISSUE REVISION COMPLETED			
20	09/07/2004	FORMAL DRAWINGS REQUIRED			
19	09/07/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
18	09/07/2004	NOTICE OF ALLOWABILITY			
17	08/19/2004	DATE FORWARDED TO EXAMINER			
16	06/30/2004	AMENDMENT AFTER FINAL REJECTION			
15	08/19/2004	CORRESPONDENCE ADDRESS CHANGE			
		CHANGE IN POWER OF ATTORNEY (MAY			

14	08/20/2004	INCLUDE ASSOCIATE POA)			
13	06/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
12	04/08/2004	MAIL FINAL REJECTION (PTOL - 326)	61		9
11	04/05/2004	FINAL REJECTION			
10	04/05/2004	DATE FORWARDED TO EXAMINER			
9	10/07/2003	RESPONSE AFTER NON-FINAL ACTION			
8	07/07/2003	MAIL NON-FINAL REJECTION			
7	06/30/2003	NON-FINAL REJECTION			
6	12/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	07/25/2002	MISCELLANEOUS INCOMING LETTER			
4	08/21/2002	APPLICATION DISPATCHED FROM OIPE			
3	08/20/2002	APPLICATION IS NOW COMPLETE			
2	08/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/25/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,940,952 B1
DATED	:	September 6, 2005
INVENTOR(S)	:	Kleinfelter, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 112 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
DIW Sep-05

EDWARD G. SMITH
1 TRESCOT LANE
BLUFFTON SC 29909

COPY MAILED
SEP 06 2005
OFFICE OF PETITIONS

In re Application of :
Edward G. Smith :
Application No. 10/202,013 : DECISION ON PETITION
Filed: 25 July, 2002 :
For: MANUAL FLOW/CONSTRAINT TOW :
DEVICE :

This is a decision on the petition filed on 15 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 September, 2004, for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 12 August, 2004, which set a one (1) month shortened period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 23 June, 2005.

---

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

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

Receipt of the amendment filed with the petition is acknowledged.

The application is being referred to Technology Center Art Unit 3727 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

MAILED

JUN 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
BOON, CHOONG SENG
Application No. 10/202,026
Filed: July 25, 2002
For: IMAGE TRANSMISSION METHOD

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 25, 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

UNITED STATES 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: 10/27/06

In re application of :
Herman et al. : **DECISION ON**
Serial No.: 10/202,034 : **PETITION**
Filed: July 23, 2002 :
For: FUEL CELL WITH INTEGRATED HEATER AND ROBUST CONSTRUCTION

This is a decision regarding a PETITION FOR REVIEW OF ELECTION OF SPECIES REQUIREMENT UNDER 37 CFR 1.181 filed May 24, 2006 to review the examiner's withdrawal of claims 27-36 depending on it as directed to a non-elected invention. Although the applicants do not cite any specific rule in their petition, it is appropriate to treat their request under 37 CFR 1.144 ("Petition from requirement from restriction").

DECISION

During the prosecution, applicants filed new claims 27-36 in paper filed August 19, 2005 . In response, the examiner invoked the Principle of Constructive Election by Original Presentation (see MPEP 818.02(a) and 821.03) to back his assertion that only certain claims corresponding to the invention previously elected for examination, i.e. claims 1-17 to a fuel cell assembly, would be examined and that the remaining claims 27-36 would be held withdrawn from prosecution as being to a distinct species, see Office Action mailed October 28, 2005. The applicants then traversed the examiner's action and, subsequently, filed the present petition.

The applicants' main argument is that claims 27-36 are not to a distinct species and that the examiner has failed to identify any species and failed to explain why the species are independent and distinct as required under MPEP 809.02. Applicants' further argue that claims are never species as per MPEP 806.04(e) and that the examiner only compared one claim to another and that such is inappropriate in the context of election of species requirement. Thus for these reasons applicants request that claims 27-36 should be rejoined with the elected invention.

It is noted that the Principle of Constructive Election by Original Presentation is properly applicable only when claims to a "different invention" are added after an Office Action (MPEP 821.03). In the present instance, claims 27-36 has not been convincingly shown to belong to an invention that is different from the elected invention. Thus, for instance claims 27-36 are drawn to the same category of invention fuel cell assembly just as is the elected invention. Moreover, the examiner did not set forth a proper species restriction requirement between the elected claims and claims 27-36 to establish that they corresponded to different species. The examiner only

stated that claims 27-36 are to a distinct species. The examiner did not properly identify the different species as per MPEP 806.04(e) as claims themselves are never species.

> *806.04(e) [R-3] Claims *>Limited< to Species*
> *Claims are definitions of inventions. Claims are never species. *>The scope of a claim< may be *>limited< to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim), or a claim may include two or more of the disclosed embodiments within the breadth and scope of *>the claim< (and thus be designated a generic or genus claim).*
> *Species are always the specifically different embodiments.*

Moreover, the examiner did not properly show why the species are distinct from one another as required under MPEP 800.02(a). The examiner only stated that claims 27-36 are to a distinct species without providing reasons as to why the species are distinct.

> *809.02(a) [R-3] Election >of Species< Required*
> *Where **>restriction between species is appropriate (see MPEP § 808.01(a))< the examiner should send a letter including only a restriction requirement or place a telephone requirement to restrict (the latter being encouraged). See MPEP § 812.01 for telephone practice in restriction requirements.*
> *Action as follows should be taken:*
> *(A) Identify generic claims or indicate that no generic claims are present. See MPEP § 806.04(d) for definition of a generic claim.*
> *(B) Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are >to be< restricted. The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted.* **>Provide reasons why the species are independent or distinct.<**
> *(C) Applicant should then be required to elect a single disclosed species under 35 U.S.C. 121, and advised as to the requisites of a complete reply and his or her rights under 37 CFR 1.141.*

In view of the above discussion, the examiner is directed to rejoin claims 27-36 with the elected invention and set forth an action on the merits of these claims.

The petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REESE TAYLOR, ESQ.
RENNER KENNER GREIVE BOBAK
TAYLOR & WEBER
FIRST NATIONAL TOWER, FOURTH FLOOR
AKRON, OHIO 44308-1456

COPY MAILED
NOV 17 2004
OFFICE OF PETITIONS

In re Application of	:	
Nick E. Ciavarella et al	:	
Application No. 10/202,059	:	NOTICE
Filed: July 25, 2002	:	
Attorney Docket No. 02050	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 19 2005

Director's Office
Group 3700

Reese Taylor, Esq.
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower, Fourth Floor
Akron, OH 44308-1456

In re Application of
CIAVARELLA ET AL.
Appl No.: 10/202,059
Filed: July 25, 2002

DECISION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed November 22, 2004 for failure to timely file corrected drawings required by the Notice of Allowance mailed July 15, 2004.

A review of the file indicates that an interview summary was not timely entered in the file prior to the Notice of Abandonment. The interview summary is now of record and indicates that the examiner had explicitly told applicant that the drawing requirement was in error and that no need for applicant to respond to the drawing requirement.

In view of the above, the Notice of Abandonment mailed November 22, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. There are no outstanding requirements and the application will be forwarded to the Office of Publications to issue in due course.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 2-21-07

Patent No.: 7,139,891
Patent Issued : November 21, 2006
Inventor(s): Axelle Apvrille, et. al.
Title: METHOD AND SYSTEM FOR TIMESTAMPED VIRTUAL WORM IN SAN
Docket No.: STK 02026

Re: Request for Certificate of Correction

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

The alleged error, claim8, col. 7, line 3 is printed in accordance with the record. The error is a change made in an Examiner's amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be corrected at this time.

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Jeremy J. Curcuri
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

ej

UNITED STATES 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

Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Dept.
P. O. Box 218
Yorktown Heights NY 10598

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of Brian Samuel Beaman et al. Application No. 10/202,069 Filed: July 23, 2002 Attorney Docket Number YOR919960183US3 Title: PROBE STRUCTURE HAVING A PLURALITY OF DISCRETE INSULATED PROBE TIPS PROJECTING FROM A SUPPORT SURFACE, APPARATUS FOR USE THEREOF AND METHODS OF FABRICATION THEREOF	DECISION ON PETITIONS UNDER 37 C.F.R. §§ 1.78(a)(3) and 1.182

This is a decision on the petitions filed April 21, 2006, pursuant to 37 C.F.R. §1.182, requesting expedited handling of the petition filed on March 18, 2005, pursuant to 37 C.F.R. §1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the petition of March 18, 2005.

The petition under 37 C.F.R. §1.182

The petition is **DISMISSED AS MOOT**. The Office regrets the period of delay in issuing a decision on petition to perfect a benefit claim, and will issue a decision on the same contemporaneously with this petition. As such, no petition to expedite will be required. The associated fee has not been charged to Petitioner's Deposit Account.

It is noted in passing that the petition to expedite contains an erroneous assertion. Contrary to the allegation set forth therein, Attorney Shanoski at no time requested that applicants submit a petition to expedite. Applicant contacted the Office and requested instruction from Mr. Shanoski as to the mechanics of the submission of a petition to expedite, but Petitioner is incorrect in his assertion that Mr. Shanoski solicited the filing of this petition.

The petition under 37 C.F.R. §1.78(a)(3):

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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 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 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.

Technology Center Art Unit 2829 will be made aware of this decision so that appropriate action can be taken on the amendment filed July 30, 2004, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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

Daniel P. Morris
IBM Corporation,
Intellectual Property Law Department
P.O. Box 218
Yorktown Heights, NY 10598

COPY MAILED

DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian Samuel Beaman et al.	:	
Application No. 10/202,069	:	DECISION ON PETITION
Filed: July 23, 2002	:	
Attorney Docket No. YOR919960186US3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 11, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2007. A Notice of Abandonment was mailed on July 3, 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 $1,540.00, and (3) a proper 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 2829 for appropriate action by the Examiner in the normal course of business on the reply received October 3, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 2 6 2004

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
Yukihiro Kamoshida et al	:	
Application No. 10/202,085	:	ON PETITION
Filed: July 25, 2002	:	
Attorney Docket No. M1071.1753	:	

This is a decision on the petition, filed May 25, 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 February 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1751 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
NOV 06 2006
OFFICE OF PETITIONS

WILLIAM C. ROWLAND
BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Tony Pervan	:	
Application No. 10/202,093	:	ON PETITION
Filed: July 25, 2002	:	
Attorney Docket No. 033462-031	:	

This is a decision on the petition, filed November 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

The examiner of Technology Center AU 3635 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAYES SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON, AZ 85701

COPY MAILED

JUL 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Jean Francois Bernat et al :
Application No. 10/202,127 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. PRINZ H1765 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed July 26, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : July 27, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Jean Francois Bernat et al
Application No. : 10/202,127
Filed : July 24, 2002

The above-identified application has been assigned Patent No. 6,923,674 and an issue date of August 2, 2005

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,923,674 to Jean Francois Bernat et al of Sartrouville, FRANCE for PLUG CONNECTOR appearing in the Official Gazette of August 2, 2005 should be deleted since no patent was granted."

Wan Laymon

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

cc: 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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6711236	2004-03-23	10202149	2002-07-23	126039

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	/Peter J. Vogel/	Date (YYYY-MM-DD)	2008-08-27
Name	Peter J. Vogel	Registration Number	41363

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. 6711236
Issue Date: March 23,2004
Application No. 10202149
Filed: July 23,2002
Attorney Docket No. 16CT01012

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

This is a decision on the electronic petition, filed August 27,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 27,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/02/06

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/202155 Patent No.: 6970872

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 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: Grammatical mistake correct

SPE **Art Unit** 2165

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

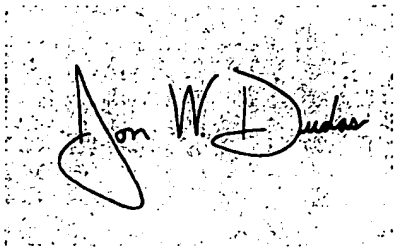
PATENT NO. : 6,970,872 B1
DATED : November 29, 2005
INVENTOR(S) : Sashikanth Chandrasekaran et al.

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

Column 21,
Line 61, delete "operation. based" and insert -- operation, based --.

Signed and Sealed this

Fourteenth Day of February, 2006



JON W. DUDAS
Director of the United States Patent and Trademark Office

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,970,872 B1

DATED : November 29, 2005

INVENTOR : Sashikanth Chandrasekaran, et al.

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

Column 20
Claim 8, line 55: Delete "claim 5" and insert --claim 3--.

Column 21
Claim 19, line 61: Delete "operation. based" and insert -- operation, based --.

MAILING ADDRESS OF SENDER:
Hickman Palermo Truong & Becker LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110

PATENT NO: 6,970,872

No. of additional copies

The 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 COMPLETE 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 selection option 2..

DEC 1 6 2005

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,970,872

DATED : November 29, 2005

INVENTOR : Sashikanth Chandrasekaran, et al.

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

Column 21
Claim 18, line 37: Delete "claim 5" and insert --claim 7--.

MAILING ADDRESS OF SENDER:
Hickman Palermo Truong & Becker LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110

PATENT NO: 6,970,872

No. of additional copies

The 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 COMPLETE 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 selection option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

COPY MAILED
APR 0 5 2006
OFFICE OF PETITIONS

In re Application of	:
Lisa S. Purvis	:
Application No. 10/202,183	: DECISION GRANTING PETITION
Filed: July 23, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. D/A 1583	:

This is a decision on the petition, filed April 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 13, 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 2176 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\Apr9\202183.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 17

COPY MAILED

OCT 25 2004

Director's Office
Office of Patent Publication

N. RHYS MERRETT
6505 WEST PARK, SUITE 306 #354
PLANO TX 75093

In re Application of
Joseph W. Lyding, et al. :
Application No. 10/202,187 : **DECISION ON PETITION**
Filed: July 24, 2002 :
Attorney Docket No. UIL1002-CIP/C :

This is a decision on the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on May 7, 2004. See MPEP 711.03(c)II

The petition is **GRANTED**.

The application was abandoned for failure to timely file a proper reply to the Office letter—Notice Regarding Drawings—mailed December 8, 2003.

Petitioner states that the Office Action mailed on December 8, 2003 was not received. Petitioner further notes that the non-delivery may have resulted from confusion in the Change of Correspondence Address submitted December 27, 2002.

Inspection of the application reveals that the Change of Correspondence Address was entered incorrectly by the USPTO.

The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement.

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn.

The Notice Regarding Drawings (Notice) and the Notice Of Draftsperson's Patent Drawing Review, Form PTO-948 attached therewith are being submitted with this decision. The PTO-948 notes the objections to the drawing, received on July 24, 2002, and the required corrections. The applicant has been given a two-month time period from the mailing date of the Notice to correct the informalities.

Thomas E Hawkins

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

Attachments: Notice Regarding Drawings
Notice Of Draftsperson's Patent Drawing Review, Form PTO-948

UNITED STATES 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 J. Nickerson
Basch & Nickerson, LLP
1777 Penfield Road
Penfield, New York, 14526

MAILED

JAN 25 2006

TECHNOLOGY CENTER 2100

In re Application of: Lisa S. Purvis et al.)
Application No.: 10/202,188)
Filed: July 23, 2002)
For: CONSTRAINT-OPTIMIZATION SYSTEM AND METHOD FOR DOCUMENT COMPONENT LAYOUT GENERATION)

DECISION ON PETITION UNDER 37 CFR §1.181 FOR SUPERVISORY REVIEW

This is a decision on the petition under 37 CFR 1.181 filed November 8, 2005 invoking the supervisory authority of the Commissioner. Petitioner requests that a new Pre-Appeal Brief Review panel be designated and that this panel be directed to issue a new panel decision.

The petition is **DISMISSED.**

RECENT RELEVANT PROSECUTION BACKGROUND

July 13, 2005	-	Final Office action rejecting all pending claims (1, 2, and 2-27) is mailed.
September 13, 2005	-	Applicant files response under 37 CFR §1.116 presenting arguments in response to the July 17 Office action and a terminal disclaimer to overcome the obviousness type double patenting rejection.
September 27, 2005	-	Advisory action mailed indicating that Applicant's remarks do not overcome the rejection of record.
October 13, 2005	-	Applicant files a Notice of Appeal accompanied with a Pre-Appeal Brief Request for Review.
November 4, 2005	-	Notice of Panel Decision from Pre-Appeal Brief Review indicating that the application remains under appeal is mailed.
November 8, 2005	-	Applicant files the petition under consideration requesting supervisory review.

December 9, 2005 - Applicant files Brief on Appeal.

BASIS OF OPINION

The Pre-Appeal Brief Conference Pilot Program was established, on 12 July 2005, by way of a notice in the Official Gazette of the USPTO. Relevant portions of that notice are reproduced below, with emphasis added as appropriate.

United States Patent and Trademark Office OG Notices: 12 July 2005

> New Pre-Appeal Brief Conference Pilot Program. Effective Date: Effective upon publication of this notice
>
> Administrative Matters
>
> ...
>
> - ***Panel decisions will not be petitionable*** because a decision to maintain a rejection is subject to appeal.

DECISION

Applicant filed a request for a pre-appeal conference, in accordance with the pilot program, on October 13 and a panel decision was mailed on November 4, 2005. Applicant now requests a new panel be formed to issue a new decision on the same request.

Applicant's submission is a petition of the panel decision. The Notice clearly sets forth that panel decisions are not petitionable.

Accordingly, the Petition is **DISMISSED**.

Any inquiries with respect to this decision may be addressed to the undersigned at the number provided below.

Paul Sewell, Group Director (Acting)
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner f r Patents
United Stat s Patent and Trademark Offic
P.O. B x 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
1425 K STREET NW, 11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED

JUL 0 7 2004

OFFICE OF PETITIONS

In re Application of
Yoshiharu Hirakata et al
Application No. 10/202,221
Filed: July 23, 2002
Attorney Docket No. 07977-113002

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 2 8 2006

OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Yoshiharu Hirakata et al	:	
Application No. 10/202,221	:	ON PETITION
Filed: July 23, 2002	:	
Attorney Docket No. 07977-113002	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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) 272-3208.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENIFER S. TARASI
THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE, 14TH FLOOR
PITTSBURGH, PA 15219-1425

COPY MAILED

MAR 23 2004

OFFICE OF PETITIONS

In re Application of :
Alan J. Russell et al :
Application No. 10/202,224 :
Filed: July 24, 2002 :
Attorney Docket No. DB000953-001

NOTICE

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

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

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

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

This file is being forwarded to Technology Center AU 1762.

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

THORP REED & ARMSTRONG LLP
ONE OXFORD CENTRE
301 GRANT STREET 14TH FLOOR
PITTSBURGH PA 15219-1425

COPY MAILED
JUL 21 2004
OFFICE OF PETITIONS

In re Application of	:	
Alan J. Russell, Geraldine F.	:	
Drevon, Douglas Wicks, Karsten	:	DECISION REFUSING
Danielmeyer	:	STATUS UNDER § 1.47(a)
Application No. 10/202,224	:	
Filing Date: July 24, 2002	:	
Attorney Docket No. DB000953-001	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 6, 2003.

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

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

The above-identified application was filed on July 24, 2002, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on August 28, 2002. This Notice set an extendable period for reply of two months. On March 6, 2003, applicants filed the instant petition, made timely by obtaining a four month extension of time and including a Certificate of Mailing dated February 28, 2003.

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). The instant petition does not satisfy requirement (1).

As to requirement (1), there has been no showing that Geraldine Drevon was presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that Drevon was forwarded via e-mail "2 .pdf documents which comprise the **Declaration** for the above referenced patent application" (emphasis added). Regarding this, the Manual of Patent Examining Procedure states:

> 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.
>
> 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).

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. If the inventor can not be located, a detailed statement of the steps taken to locate the inventor must be presented. Copes of documentary evidence, such as internet searches or certified mail receipts, should be submitted to support such a showing.[1]

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

---

[1] MPEP 409.03(d).

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

By FAX: (703) 872-9306[2]
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] On or about September 28, 2004, the facsimile number for the Office of Petitions will be 571-273-0025.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THORP REED & ARMSTRONG LLP
ONE OXFORD CENTRE
301 GRANT ST 14TH FLOOR
PITTSBURGH PA 15219-1425

COPY MAILED

DEC 13 2004

OFFICE OF PETITIONS

In re Application of Alan J. Russell, Geraldine F. Drevon, Douglas Wicks, Karsten Danielmeyer Application No. 10/202,224 Filed: July 24, 2002 Attorney Docket No. DB000953-001	:	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the paper titled "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)", filed October 18, 2004.

The above-identified application was filed on July 24, 2002, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on August 28, 2002. This Notice set an extendable period for reply of two months. On March 6, 2003, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a four month extension of time and including a Certificate of Mailing dated February 28, 2003. However, the petition was dismissed in a decision mailed on July 21, 2004.

With the instant petition, petitioner has now submitted a declaration in compliance with 37 CFR 1.63 and executed by the previously non-signing joint inventor, Geraldine F. Drevon.

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 Patent Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

Michael J. Nickerson
Basch & Nickerson, LLP
1777 Penfield Road
Penfield, New York, 14526

In re Application of: Lisa S. Purvis Application No.: 10/202,227 Filed: July 23, 2002 For: CASE-BASED SYSTEM AND METHOD FOR GENERATING A CUSTOM DOCUMENT	))))))	**DECISION ON PETITION UNDER 37 CFR §1.181 FOR SUPERVISORY REVIEW**

This is a decision on the petition under 37 CFR 1.181 filed October 31, 2005 invoking the supervisory authority of the Commissioner. Petitioner requests that a new Pre-Appeal Brief Review panel be designated and that this panel be directed to issue a new panel decision.

The petition is **DISMISSED.**

RECENT RELEVANT PROSECUTION BACKGROUND

July 17, 2005	-	Final Office action rejecting all pending claims (1-5 and 11) is mailed.
September 9, 2005	-	Applicant files response under 37 CFR §1.116 presenting arguments in response to the July 17 Office action.
September 19, 2005	-	Advisory action mailed indicating that Applicant's remarks do not overcome the rejection of record.
October 11, 2005	-	Applicant files a Notice of Appeal accompanied with a Pre-Appeal Brief Request for Review.
October 26, 2005	-	Notice of Panel Decision from Pre-Appeal Brief Review indicating that the application remains under appeal is mailed.
October 31, 2005	-	Applicant files the petition under consideration requesting supervisory review.
December 8, 2005	-	Applicant files Brief on Appeal.

BASIS OF OPINION

The Pre-Appeal Brief Conference Pilot Program was established, on 12 July 2005, by way of a notice in the Official Gazette of the USPTO. Relevant portions of that notice are reproduced below, with emphasis added as appropriate.

United States Patent and Trademark Office OG Notices: 12 July 2005

> New Pre-Appeal Brief Conference Pilot Program. Effective Date: Effective upon publication of this notice
>
> Administrative Matters
>
> ...
>
> - ***Panel decisions will not be petitionable*** because a decision to maintain a rejection is subject to appeal.

DECISION

Applicant filed a request for a pre-appeal conference, in accordance with the pilot program, on October 11 and a panel decision was mailed on October 16th. Applicant now requests a new panel be formed to issue a new decision on the same request.

Applicant's submission is a petition of the panel decision. The Notice clearly sets forth that panel decisions are not petitionable.

Accordingly, the Petition is **DISMISSED**.

Any inquiries with respect to this decision may be addressed to the undersigned at the number provided below.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R. SCOTT RHOADES
STRASBURGER & PRICE, L.L.P.
SUITE 4300
901 MAIN STREET
DALLAS TX 75202-3794

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Cipolla et al.	:	
Application No. 10/202,234	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 31578.0102	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Bhaumik et al.	:	
Application No. 10/202,236	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 1488.005US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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 August 24, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

COPY MAILED
AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of :
Robert Greenberg :
Application No. 10/202,248 :
Filed: July 24, 2002 :
Attorney Docket No. S133-CIP :

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 19, 2004. Accordingly, this application became abandoned on January 20, 2005. A Notice of Abandonment was mailed on May 11, 2005.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The file is being forwarded to Technology Center 3700 for review of the amendment, filed March 15, 2006, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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

TROUTMAN SANDERS, LLP
5200 BANK OF AMERICA PLAZA
600 PEACHTREE STREET, NE
ATLANTA GA 30308

COPY MAILED

DEC 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert McBride	:	
Application No. 10/202,253	:	DECISION ON PETITION
Filed: July 23, 2002	:	
Attorney Docket No. 314 US	:	

This is a decision on the petition, filed November 9, 2007, which is being treated as a petition under 37 CFR 1.8(b), 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 restriction requirement of March 22, 2007, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before April 22, 2007.

Petitioner states that a timely reply was mailed via certificate of transmission on April 12, 2007, which included the following papers: amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 12, 2007, which would have rendered the reply timely if received. Petitioner has also provided a copy of the sending unit's report.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), 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 U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 22, 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 (or transmitted by facsimile) on April 12, 2007.

This application is being referred to Technology Center AU 3761 for appropriate action in the normal course of business on the reply received with petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3215

Charlema Grant

Charlema Grant
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)
6,739,846	2004-05-25	10/202,264	2002-07-24	069099.0135

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	/BKP/	Date (YYYY-MM-DD)	2008-08-07
Name	Brian K. Prewitt	Registration Number	60135

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. 6739846
Issue Date: May 25,2004
Application No. 10202264
Filed: July 24,2002
Attorney Docket No. MAX.0006US

:

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

:

This is a decision on the electronic petition, filed August 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 7,2008 . 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.

1771

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H.B. Fuller
Patent Department
P.O. Box 64683
St. Paul, MN 55164-0683

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

In re Application of
Vernon H. Batdorf
Application No. 10/202,270
Filed: July 23, 2002
Attorney Docket No. DA-029-US-01

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2003, 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 22, 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 set forth the projected publication date of March 4, 2004, was mailed on November 25, 2003.

Any inquiries concerning this decision may be directed to Andrea Smith at (703) 308-6711.

This application is being forwarded to Technology Center Art Unit 1775 for examination in due course.

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

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

Paper No. N/A

Steven E. Koffs
DUANE MORRIS LLP
IP Department
One Liberty Place
Philadelphia, PA 19103-7396

COPY MAILED

JUN 1 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Christopher HESS et al.	:	
Application No. 10/202,278	:	DECISION ON PETITION
Filed: July 24, 2002	:	37 CFR 1.182
Attorney Docket No. D5116-00009	:	

This is a decision on the petition under 37 CFR 1.182, filed April 22, 2004, to change the order of the names of the inventors.

The petition is GRANTED.

The order of the names of the inventors has been changed as indicated on the enclosed corrected filing receipt.

This application is being returned to the Publications Branch for further processing.

Inquiries regarding this communication may be directed to B. Dayoan or, in her absence, to the undersigned at (703) 305-9282.

Karen Creasy

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

/bcd
enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED

DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of
Tamada et al.
Application No. 10/202,279
Filed: July 22, 2002
Attorney Docket No. P/1596-57

DECISION ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment Based on Failure to Receive a Notice of Allowance, Pursuant to MPEP 711.03(c) II," filed on November 21, 2005.

On June 2, 2005, the Office mailed a Notice of Allowance and Fee(s) Due ("Notice of Allowance"), which set a three-month statutory period to reply. In the apparent absence of the timely payment of the issue and publication fees, the application was held abandoned on September 3, 2005. A Notice of Abandonment was mailed on October 26, 2005.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Allowance.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance 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

[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).

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 submitted a copy of the docket records where the non-received Notice of Allowance would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice of Allowance was not received. Lastly, the practitioner submitted copies of three status inquiry letters mailed to the USPTO, dated September 24, 2004, March 17, 2005, and September 26, 2005.

As applicant made the required showing, the petition to withdraw the holding of abandonment is granted. In view of the evidence presented in support of the contention that the practitioner did not receive the original Notice of Allowance of June 2, 2005, **Technology Center Art Unit 1763 shall remail the Notice of Allowance and restart the period for response.**

This matter is being referred to Technology Center Art Unit 1763 for further action in accordance with the present decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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)
6,641,411	2003-11-04	10/202,286	2002-07-24	069099.0134

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	/BKP/	Date (YYYY-MM-DD)	2008-08-07
Name	Brian K. Prewitt	Registration Number	60135

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. 6641411
Issue Date: November 4,2003
Application No. 10202286
Filed: July 24,2002
Attorney Docket No. MAX.0005US

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

This is a decision on the electronic petition, filed August 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

JUN 30 2003

In re Application of	:	
Kevin Maher et al.	:	
Application No. 10/202,298	:	DECISION ON REQUEST TO
Filed: July 23, 2002	:	WITHDRAW FROM RECORD
For: MULTIPLEXED FLUORESCENT	:	
DETECTION IN MICROFLUIDIC DEVICES	:	

This is a decision on the request filed by Thomas E. Ciotti to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed on May 5, 2003. Mr. Ciotti signed on behalf of all attorneys/agents of record in this application.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will be directed to Ms. Virginia Griffith 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: Ms. Virginia Griffith
1288 Pear Avenue
Mountain View, CA 94043

UNITED STATES 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

THOMAS H. CLOSE
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

COPY MAILED

FEB 12 2004

OFFICE OF PETITIONS

In re Application of
Spaulding et al.
Application No. 10/202,313
Filed: July 24, 2002
Attorney Docket No. 84029RLO

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 5, 2004, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before October 20, 2002. A Notice of Abandonment was mailed on January 28, 2004.

Petitioner states that the reply was in fact timely filed, although due to a clerical error, the wrong serial number was listed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on September 16, 2002 of 1. Copy of Formalities Record; and 2. Drawings. Additionally, petitioner has supplied a copy of the previously mailed correspondence which bears a certificate of mailing date of September 9, 2002.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

The reply acknowledged as having been received in the USPTO on September 16, 2002 (certificate of mailing date of September 9, 2002) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the

USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

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

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

The Office sincerely apologizes for the inconvinience caused the petitioner in this matter.

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

Telephone inquiries concerning this decision should be directed tothe undersigned at (703) 306-0482.

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

COPY MAILED

DEC 17 2002

OFFICE OF PETITIONS

In re Application of
Jason C.H. Shih
Application No. 10/202,339
Filed: July 24, 2002
Attorney Docket No. 5051.584

NOTICE

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit.

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

RD

UNITED STATES 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 FROM
DIRECTORS OFFICE

MAR 28 2006

TECHNOLOGY CENTER 2800

032006

WILLIAM CRAY
CYMER, INC. LEGAL DEPARTMENT MS/4-2C
17075 THORNMINT COURT
SAN DIEGO, CA 92127

In re Application of:
ZSOLT BOR
Serial No.: 10/202,351
Filed: 23 July 2002
Title: NARROW BAND ELECTRIC DISCHARGE GAS LASDER HAVING IMPROVED BEAM DIRECTION STABILITY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on January 24, 2005, to withdraw the holding of abandonment of the above-identified application under 37 CFR § 1.181.

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

An Office notice was mailed to petitioners on July 8, 2004, holding that the appeal brief (labeled "Substitute Appeal Brief") filed June 16, 2004 was defective for failing to comply with 37 CFR § 1.192(c). An amended appeal brief was timely filed on August 9, 2004 (labeled "Second Substitute Appeal Brief"). A Notice of Abandonment was mailed on January 12, 2005, holding the appeal dismissed pursuant to 37 CFR § 1.192(d) and the application abandoned due to the amended appeal brief's failure to overcome all of the reasons for holding noncompliance of which the petitioner was notified and the expiration of the time period for correcting the noted defects.

37 CFR § 1.192 (d)[1], states:

[1] On September 13, 2004, 37 CFR § 1.192 was abolished and 37 CFR § 41.37 became effective.

> (d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. *If appellant* does not file an amended brief during the one-month period, or *files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.* (italics added)

The appeal brief was found defective for lack of: a "concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters," as set forth in 37 CFR § 1.192 (c)(5); a "concise statement of the issues presented for review," as set forth in 37 CFR § 1.192 (c)(6); each argument under a separate heading for each issue on appeal as set forth in 37 CFR § 1.192 (c)(7), and the submitted prior art being submitted in the same appendix as the claims. The second amended appeal brief filed August 9, 2004, was found defective for a lack of conciseness, and inclusion of material not describing the invention found in the claims in the "Summary of Invention" section required by 37 CFR § 1.192 (c)(5) and as described in MPEP § 1206.

Petitioner asserts that the amended appeal brief fully complies with the requirements of MPEP § 1206 because, in the Summary of Invention section, the description of the invention was sufficiently concise to satisfy MPEP § 1206.

When an appellant fails to describe the invention as required by 37 CFR § 1.192 (c)(5), the MPEP provides two possible courses of action. In the first course of action, the brief may be treated as non-compliant under 37 CFR § 1.192 (d). Alternatively, the examiner may address deficiencies in the description, and may include a correct summary of the invention if necessary, in the Examiner's Answer in accordance with MPEP § 1208.

The MPEP discusses rationale for choosing between two similar courses of action in § 1206:

> A distinction must be made between the lack of any argument and the presentation of arguments which carry no conviction. In the former case, notification of a defective appeal brief is in order, while in the latter case, the application or reexamination is forwarded to the Board for a decision on the merits.

Petitioner's amended appeal brief appears to be a good faith response satisfying the essential requirements of 37 CFR § 1.192 (c)(5) rather than a lack of a veritable summary of the invention. While the summary of invention may not be as concise as examiner would like, neither is it so long or vague that the Board would be unclear as to the understanding of the claimed subject matter or its location in the specification. The appropriate course of action appears for such matters of conciseness or clarity to be best addressed in an Examiner's Answer.

For the above-stated reasons, the amended appeal brief is hereby determined to be in compliance with the requirements of the rule. Accordingly, the dismissal of the appeal was improper and the holding of abandonment inappropriate.

The Notice of Abandonment mailed January 12, 2005, is hereby vacated and the holding of abandonment withdrawn. The appeal is reinstated.

The brief will be considered by the examiner, and appropriate action will be taken.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

IAW

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP42
MAY 0 5 2006
PATENT & TRADEMARK OFFICE

MAILED FROM
DIRECTORS OFFICE

MAR 2 8 2006

TECHNOLOGY CENTER 2800

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

032006

WILLIAM CRAY
CYMER, INC. LEGAL DEPARTMENT MS/4-2C
17075 THORNMINT COURT
SAN DIEGO, CA 92127

In re Application of:
ZSOLT BOR
Serial No.: 10/202,351
Filed: 23 July 2002
Title: NARROW BAND ELECTRIC DISCHARGE GAS LASDER HAVING IMPROVED BEAM DIRECTION STABILITY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on January 24, 2005, to withdraw the holding of abandonment of the above-identified application under 37 CFR § 1.181.

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

An Office notice was mailed to petitioners on July 8, 2004, holding that the appeal brief (labeled "Substitute Appeal Brief") filed June 16, 2004 was defective for failing to comply with 37 CFR § 1.192(c). An amended appeal brief was timely filed on August 9, 2004 (labeled "Second Substitute Appeal Brief"). A Notice of Abandonment was mailed on January 12, 2005, holding the appeal dismissed pursuant to 37 CFR § 1.192(d) and the application abandoned due to the amended appeal brief's failure to overcome all of the reasons for holding noncompliance of which the petitioner was notified and the expiration of the time period for correcting the noted defects.

37 CFR § 1.192 (d)[1], states:

[1] On September 13, 2004, 37 CFR § 1.192 was abolished and 37 CFR § 41.37 became effective.

> (d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. *If appellant* does not file an amended brief during the one-month period, or *files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.* (italics added)

The appeal brief was found defective for lack of: a "concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters," as set forth in 37 CFR § 1.192 (c)(5); a "concise statement of the issues presented for review," as set forth in 37 CFR § 1.192 (c)(6); each argument under a separate heading for each issue on appeal as set forth in 37 CFR § 1.192 (c)(7), and the submitted prior art being submitted in the same appendix as the claims. The second amended appeal brief filed August 9, 2004, was found defective for a lack of conciseness, and inclusion of material not describing the invention found in the claims in the "Summary of Invention" section required by 37 CFR § 1.192 (c)(5) and as described in MPEP § 1206.

Petitioner asserts that the amended appeal brief fully complies with the requirements of MPEP § 1206 because, in the Summary of Invention section, the description of the invention was sufficiently concise to satisfy MPEP § 1206.

When an appellant fails to describe the invention as required by 37 CFR § 1.192 (c)(5), the MPEP provides two possible courses of action. In the first course of action, the brief may be treated as non-compliant under 37 CFR § 1.192 (d). Alternatively, the examiner may address deficiencies in the description, and may include a correct summary of the invention if necessary, in the Examiner's Answer in accordance with MPEP § 1208.

The MPEP discusses rationale for choosing between two similar courses of action in § 1206:

> A distinction must be made between the lack of any argument and the presentation of arguments which carry no conviction. In the former case, notification of a defective appeal brief is in order, while in the latter case, the application or reexamination is forwarded to the Board for a decision on the merits.

Petitioner's amended appeal brief appears to be a good faith response satisfying the essential requirements of 37 CFR § 1.192 (c)(5) rather than a lack of a veritable summary of the invention. While the summary of invention may not be as concise as examiner would like, neither is it so long or vague that the Board would be unclear as to the understanding of the claimed subject matter or its location in the specification. The appropriate course of action appears for such matters of conciseness or clarity to be best addressed in an Examiner's Answer.

For the above-stated reasons, the amended appeal brief is hereby determined to be in compliance with the requirements of the rule. Accordingly, the dismissal of the appeal was improper and the holding of abandonment inappropriate.

The Notice of Abandonment mailed January 12, 2005, is hereby vacated and the holding of abandonment withdrawn. The appeal is reinstated.

The brief will be considered by the examiner, and appropriate action will be taken.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & 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

DICKE BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

MAILED

JAN 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,889,950	:	
Issue Date: May 10, 2005	:	
Application No. 10/202,356	:	ON PETITION
Filed: July 24, 2002	:	
Patentee(s) Robert J. Evanoff	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 7, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES 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. 12

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

FEB 09 2004

OFFICE OF PETITIONS

In re Application of
Yamada et al.
Application No. 10/202,371
Filed: July 24, 2002
Attorney Docket No. A35354-070793.0145

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 7, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on October 8, 2003.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted with the petition on January 26, 2004 was subsequent to the maximum extendable period for reply, it is unnecessary and no fee will be charged to petitioner's deposit account.

The file is now being forwarded to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Wan Layman

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN C. SIMMONS
7993 CAVERSHAM WOOD LN
GERMANTOWN, TN 38138

COPY MAILED

SEP 20 2006

OFFICE OF PETITIONS

In re Application of :
John C. Simmons :
Application No. 10/202,414 :
Filed: July 22, 2002 :
Title of Invention: :
ASSISTIVE CLOTHING :

This is a decision in response to the Petition Under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-compliant Amendment (hereinafter "Notice"), mailed September 15, 2005. The Notice set a one (1) month period for reply, and provided for extenstions of time under 37 CFR 1.136(a).

Applicant filed a reply to the Notice on November 14, 2005; however, the reply failed to include an extension of time request and fee.

No timely reply having been received, the application became abandoned October 16, 2005. A Notice of Abandonment was mailed on May 30, 2006.

Petitioner files the instant petition and petition fee, and as the required reply notes the previously-filed reply on November 14, 2005. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3736 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 05-03

Paper No: 6

LAW OFFICE OF
KAREN DANA OSTER, LLC
PMB 1020
15450 SW BOONES FERRY ROAD #9
LAKE OSWEGO OR

COPY MAILED
MAY 2 2 2003
OFFICE OF PETITIONS

In re Application of	:
Brett	:
Application No. 10/202,415	: DECISION ON PETITION
Filed: 22 July, 2002	:
Attorney Docket No. ExpCon:PerCel	:

This is a decision on the petition, filed via FAX on 4 April and resubmitted on 13 May, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**, and, pursuant to Petitioner's authorization, the petition fee ($650.00) is charged to Deposit Account 50-2115.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 14 October, 2002. Moreover, Petitioner believed--she now knows, in error--that the Office had been timely notified of the foreign filing, and she first submitted the instant petition (with a companion recision request) on 4 April, 2003, the date she learned of the error.

Thus, Petitioner alleges that she 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 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 21 August, 2003, accompanies this decision.

This application is being forwarded to Technology Center Art Unit 3700 for examination in due course.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

APR 6 2004

Paper No. 06

Thomas J. Tighe, Esq.
Suite 103
6265 Greenwich Drive
San Diego CA 92122

In re Application of:	:	
KOPECKY, EUGENE FRANCIS	:	
Application No. 10/202,426	:	DECISION ON PETITION
Filed: July 22, 2002	:	TO MAKE SPECIAL
For: CLEANING BLADE SYSTEM FOR ELECTROPHOTOGRAPHY	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 29, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty-five (65) years of age or more. No fee is required for this petition.

The petition includes Mr. Kopecky's passport, as a showing that applicant is sixty-five (65) years of age or more.

Accordingly, the petition is granted.

An Office action was mailed on October 16, 2003, setting a shortened statutory period for response of the three months. The time period set in the office action of October 16, 2003, remains in effect.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Inquires regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

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

OIPE
SEP 3 0 2002
PATENT & TRADEMARK OFFICE

TSR-100-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Durham		
Serial No.:	10/202,434	Group Unit:	
Filed:	July 24, 2002	Examiner:	
For:	"RADIAL FLUX DIODE MOTOR"		

AMENDMENT AND RESPONSE

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the Notice of Omitted Item(s) in a Nonprovisional Application mailed August 28, 2002, a copy of which is enclosed, please amend the above-identified application as follows in order to overcome the objection to the application.

Please substitute the enclosed copy of the drawings for the originally submitted drawings. The enclosed drawings have been renumbered from Figs. 10-20 to overcome the objection to the application.

Please make the following changes as shown in the attached substituted specification and on the attached sheets entitled "Clean Version":

10202434.093002

OIPE JC109
SEP 3 0 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/202,434	07/24/2002	Gary L. Durham	TSR-100-A

CONFIRMATION NO. 5846

FORMALITIES LETTER

OC000000008697972

YOUNG & BASILE, P.C.
Todd L. Moore
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

Date Mailed: 08/28/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **9,11** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 02-03

Paper No. 7

KATHRYN A MARRA
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

COPY MAILED

MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Chernoff, Johnson, Borroni-Bird,	:	
Shabana, and Vitale	:	DECISION ACCORDING STATUS
Filed: 24 July, 2002	:	UNDER 37 CFR 1.47(a)
Atty Docket No. GP-302544	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 27 January, 2003.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Tucker J. Johnson, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the statement of facts signed by Eleanor Kalik, Carol Siino, and petitioner's registered patent attorney Kathryn A. Marra, that, despite a meeting and several phone conversations with the non-signing inventor and his putative attorney, John Kelly, the non-signing inventor failed to return a signed declaration naming him as a joint inventor along with Adrian B. Chernoff, Christoper E. Borroni-Bird, Mohsen Shabana, and Robert Louis Vitale.

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

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

The application is being forwarded to Technology Center 3600 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
.DW 02-03

Tucker J. Johnson
2027 Lake Angelis Road
Lake Angelis, MI 48326

COPY MAILED

MAR 03 2003

OFFICE OF PETITIONS

In re Application of
Chernoff et al.
Application No. 10/202,449
Filed: 24 July, 2002
For: VEHICLE BODY INTERCHANGEABILITY

Dear Mr. Johnson:

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

KATHRYN A MARRA
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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

Paper No. 6

KATHRYN A. MARRA
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

COPY MAILED

MAY 06 2003

OFFICE OF PETITIONS

In re Application of	:
Chernoff, Borroni-Bird, Shabana,	:
Vitale, and Johnson	: DECISION ACCORDING STATUS
Application No. 10/202,456	: UNDER 37 CFR 1.47(a)
Filed: 24 July, 2002	:
Attorney Docket No. GP-301579	:

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 27 January, 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 mailed a copy of the application papers. Specifically, petitioners have shown that a copy of the application was sent to the non-signing inventor by petitioners' registered patent attorney, Kathryn A. Marra, but that the non-signing inventor refused to sign and return the declaration.

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

As provided in Rule 1.47(c), this Office will forward notice of

---

[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.

this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette. After this decision is mailed, the application will be forwarded to Technology Center 3600 for examination in due course.

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

D Wood

Douglas I. Wood
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 05-03

Tucker J. Johnson
2027 Lake Angelis Road
Lake Angelus, MI 48326

COPY MAILED
MAY 0 6 2003
OFFICE OF PETITIONS

In re Application of
Chernoff et al.
Application No. 10/202,456
Filed: 24 July, 2002
For: VEHICLE BODY INTERCHANGEABILITY

Dear Mr. Johnson:

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

KATHRYN A. MARRA
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

COPY MAILED

AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
CRIBIER, Alain	:	
Application No. 10/202,458	:	DECISION GRANTING PETITION
Filed: July 23, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **501015.20502**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 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 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3738 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

[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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

COPY MAILED

NOV 06 2008

OFFICE OF PETITIONS

In re Application of
Alain Cribier
Application No. 10/202,458
Filed: July 23, 2002
Attorney Docket No: **PVI-5791CON2CIP**

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

This is a decision on the petition under 37 CFR 1.78(a)(3) filed June 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 09/345,824.

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.

In response to the non-Final Office Action mailed December 11, 2007, the instant petition is filed to claim the benefit of the prior filed application noted in the Supplemental Application Data Sheet filed June 11, 2008 with the instant petition.

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

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

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

Any inquiries concerning this decision may be directed to 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 3738 for appropriate action on the Supplemental Application Data Sheet filed June 11, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

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
10/202,458	07/23/2002	3738	758	PVI-5791CON2CIP	21	1

CONFIRMATION NO. 6027

CORRECTED FILING RECEIPT

30452
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

OC000000031875428

Date Mailed: 11/06/2008

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 submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Alain Cribier, Maromme, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 30452

Domestic Priority data as claimed by applicant

This application is a CIP of 10/139,741 05/02/2002 PAT 6,908,481
which is a CON of 09/795,803 02/28/2001 ABN
which is a CON of 09/345,824 06/30/1999 ABN
which is a CON of PCT/EP97/07337 12/31/1997

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 96402929.2 12/31/1996

If Required, Foreign Filing License Granted: 09/19/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/202,458**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMPLANTING A VALVE PROSTHESIS IN BODY CHANNELS

Preliminary Class

623

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).

UNITED STATES 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.

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

COPY MAILED

AUG 24 2009

OFFICE OF PETITIONS

In re Application of :
Cribier :
Application No. 10/202,458 :
Filed: July 23, 2002 :
Attorney Docket No. PVI-5791CON2CIP :
Title: IMPLANTING A VALVE PROSTHESIS IN BODY CHANNELS :

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed June 2, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 7, 2008, which set a shortened statutory period for reply of three months. An after-final amendment was received on May 7, 2009 along with a three-month extension of time.[1] No further extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no additional response was received. Accordingly, the above-identified application became abandoned on May 8, 2009.

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

(1) The reply required to the outstanding Office

1 The after-final amendment failed to place this application in condition for allowance. An advisory action has been included with this decision.

action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

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

With this petition, Petitioner filed the petition fee and a statement that is being construed as the proper statement of unintentional delay. Petitioner further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment that was submitted on February 24, 2009 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has

---

2 See Rule 1.137(d).

been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] 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

Encl. Advisory Action

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/22/2010

Applicant	: Peter Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7608058	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/202,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **905** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 12-02

Paper No. 6

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

DEC 19 2002

OFFICE OF PETITIONS

In re Application of	:
Baker et al.	:
Application No. 10/202,475	: DECISION DISMISSING
Deposited: 23 July, 2002	: PETITION
Attorney Docket No. P3430R1C452	:

This is a decision on the petition under 37 CFR 1.53(e) filed on 2 December, 2002, which is treated as a petition requesting that the above identified application be accorded a filing date of 23 July, 2002.

The petition is **dismissed**.

The application was deposited on 23 July, 2002. On 28 October,, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the specification was missing, and that a complete specification as prescribed by 35 U.S.C. § 112 was required. A two (2)-month period for reply was set. In response, on 2 December, 2002, the present petition was filed.

Petitioner argues that a complete specification was filed on 23 July, 2001. In support, a copy of petitioners' postcard receipt was provided with the present petition. The postcard bears an Office date stamp of 23 July, 2002, and the above identified application number. The postcard itemizes the filing of 134 pages of specification, 25 pages of claims, 1 page of abstract, and 615 sheets of drawings.

The petition is dismissed because petitioners have not provided a copy of the 134 pages of specification, 25 pages of claims, and 1 page of abstract asserted to have been filed on 23 July, 2002. Any renewed petition should be accompanied by these items. It is also noted that an oath or declaration has not been supplied.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing as an incomplete application.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 8

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:
Baker et al.	:
Application No. 10/202,475	: DECISION DISMISSING
Filed: 24 February, 2003	: PETITION
Attorney Docket No. P3430R1C452	:

This is a decision on the renewed petition under 37 CFR 1.53(e) filed on 24 February, 2003, which is treated as a petition requesting that the above identified application be accorded a filing date of 23 July, 2002.

The petition is **dismissed**.

The application was deposited on 23 July, 2002. On 28 October, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the specification was missing, and that a complete specification as prescribed by 35 U.S.C. § 112 was required. A two (2)-month period for reply was set. In the petition filed on 2 December, 2002, petitioner argues that a complete specification was filed on 23 July, 2001. In support, a copy of petitioners' postcard receipt was provided. The postcard bears an Office date stamp of 23 July, 2002, and the above identified application number. The postcard itemizes the filing of 134 pages of specification, 25 pages of claims, one (1) page of abstract, and 615 sheets of drawings. That petition was dismissed because petitioners did not provide a copy of the 134 pages of specification, 25 pages of claims, and 1 page of abstract asserted to have been filed on 23 July, 2002.

The present petition, however, is accompanied by 135 pages of written description, 26 pages of claims, and one (1) page of abstract. Since the number of pages of specification (written description and claims) supplied with the present petition is

different than the number of pages of specification, including claims, listed on petitioners' itemized postcard, either the itemized postcard did not properly itemize the papers filed on 23 July, 2002, or petitioner has not provided a copy of the papers actually filed on 23 July, 2002. In any event, it cannot be determined which of the 135 pages of written description and 26 pages of claims filed on 24 February, 2003, were among the 134 pages of specification (written description) and 25 pages of claims received in the USPTO on 23 July, 2002. Petitioners are reminded that a postcard receipt will not serve as *prima facie* evidence of the filing of any papers not properly itemized thereon.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 24 February, 2003, the date that a specification, including at least one claim, was received in the USPTO.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 06-03

Paper No. 10

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Baker et al.	:	
Application No. 10/202,475	:	DECISION GRANTING
Filed: 23 July, 2002	:	PETITION
Attorney Docket No. P3430R1C452	:	

This is a decision on the twice renewed petition under 37 CFR 1.53(e) filed on 29 April, 2003, which is treated as a petition requesting that the above identified application be accorded a filing date of 23 July, 2002.

The petition is **GRANTED**.

The application was deposited on 23 July, 2002. On 28 October, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the specification was missing, and that a complete specification as prescribed by 35 U.S.C. § 112 was required. A two (2)-month period for reply was set. In the petition filed on 2 December, 2002, petitioner argues that a complete specification was filed on 23 July, 2001. In support, a copy of petitioners' postcard receipt was provided. The postcard bears an Office date stamp of 23 July, 2002, and the above identified application number. The postcard itemizes the filing of 134 pages of specification, 25 pages of claims, one (1) page of abstract, and 615 sheets of drawings. That petition, and the renewed petition filed on 24 February, 2003, were dismissed because petitioners did not provide a copy of the 134 pages of specification, 25 pages of claims, and 1 page of abstract asserted to have been filed on 23 July, 2002.

The present petition is accompanied by 134 pages of written description, 25 pages of claims, and one (1) page of abstract.

Upon review of the record, no pages of specification, including claims, deposited on 23 July, 2002, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 23 July, 2002, included 134 pages of written description, 25 pages of claims, and one (1) page of abstract. Therefore, the application, including the 134 pages of written description, 25 pages of claims, and one (1) page of abstract, was complete on filing and entitled to a filing date of 23 July, 2002.

In view of the above, the petition is granted.

The Notice of Incomplete Nonprovisional Application mailed on 28 October, 2002, is withdrawn. The petition fee of $130.00 will be credited to counsel's deposit account, No. 11-1410, as authorized in the present petition

The application will be processed and examined using the application papers filed on 23 July, 2002, and the and the 134 pages of written description, 25 pages of claims, and one (1) page of abstract supplied with the present petition supplied on 29 April, 2003. The copy of the specification, claims, and abstract filed on 24 February, 2003, will not be used for processing or examination, but will be retained in the official file.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 23 July, 2002, using the application papers filed on that date, and the 134 pages of written description, 25 pages of claims, and one (1) page of abstract supplied with the present petition, and for mailing of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph A. Miller :
Application No. 10/202,483 :
Filed: July 23, 2002 :
Attorney Docket No. 021153-000110US :

This is a decision on the petition under 37 CFR 1.313, filed January 18, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue "for the purpose to permit consideration of an Information Disclosure Statement (IDS) under § 1.97." The issue fee was paid in this application on June 8, 2004.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3210.

The matter is being referred to the Office of Patent Publication.

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

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

FEB 07 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph A. Miller :
Application No. 10/202,483 :
Filed: July 23, 2002 :
Attorney Docket No. 021153-000110US

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 30, 2008

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/202492 Patent No.: 7238194 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: _____

TODD E. MANAHAN
SUPERVISORY PATENT EXAMINER

SPE

3731
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

JOHN B. GROE
10805 RANCHO BEMARDO ROAD
SUITE 200
SAN DIEGO, CA 92127

COPY MAILED

JAN 30 2006

OFFICE OF PETITIONS

In re Application of Groe :
Application No. 10/202,501 :
Filing Date: July 23, 2002 :
Attorney Docket No. 000702 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

The petition is **granted.**

A non-final Office action was mailed on December 16, 2004.

An amendment was filed in response to the Office action. The amendment included a total of 5 independent claims. The amendment did not include authorization to charge the fee for the 2 independent claims to petitioner's credit card or deposit account.

A "Notice of Fee Deficiency" was mailed on June 2, 2005. The Notice set a time period to respond of one (1) month or thirty (30) days, whichever was longer.

A reply was not timely filed.

The instant petition requests revival of the application. The petition is accompanied by an amendment resulting in the presence of only 3 independent claims in the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2685 will be informed of the instant decision so that the application may be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/7/06

Paper No.: ____

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/202503 Patent No. 6994981 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Brenda Brumback
SPE

1647
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

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

COPY MAILED

JUN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Jain et al
Application No. 10/202,507
Filed: July 24, 2002
Attorney Docket Number: RSW920020064US1

Title of Invention: System for Generating a Virtual Map to a Plurality of Files Necessary for Installing Software from Multiple Networked Locations

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed December 4 , 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 5, 2007. A Notice of Abandonment was mailed on March 30, 2007.

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

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

The change of address has been entered and made of record.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TIAJOLOFF & KELLY
CHRYSLER BUILDING, 37TH FLOOR
405 LEXINGTON AVENUE
NEW YORK NY 10174

COPY MAILED
NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Aydin Arpa et al.	:	
Application No. 10/202,546	:	DECISION ON PETITIONS
Filed: July 24, 2002	:	UNDER 37 CFR 1.78(A)(3)
Attorney Docket No.: 57549-0101	:	AND (A)(6)
Title: METHOD AND APPARATUS FOR PROVIDING	:	
IMMERSIVE SURVEILLANCE	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

This 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, this application is a continuation-in-part of Application No. 09/800,550, which was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/187,557, which was filed on March 7, 2000, for which priority is claimed.

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.

This application is being forwarded to Technology Center Art Unit 2621 for consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/202,546	07/24/2002	2621	1712	57549-0101	8	23	5

CONFIRMATION NO. 4048

CORRECTED FILING RECEIPT

OC000000020676850

28481
TIAJOLOFF & KELLY
CHRYSLER BUILDING, 37TH FLOOR
405 LEXINGTON AVENUE
NEW YORK, NY 10174

Date Mailed: 10/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Aydin Arpa, Plainsboro, NJ;
Keith Hanna, Princeton, NJ;
Rakesh Kumar, Monmouth Junction, NJ;
Supun Samarasekera, Princeton, NJ;
Harpreet Singh Sawhney, West Windsor, NJ;
Manoj Aggarwal, Plainsboro, NJ;
David Nister, Plainsboro, NJ;
Stephen Hsu, Cranbury, NJ;

Assignment For Published Patent Application

Sarnoff Corporation

Power of Attorney:

Andrew Tiajoloff--31575

Domestic Priority data as claimed by applicant

This application is a CIP of 09/800,550 03/07/2001 PAT 6,985,620
which claims benefit of 60/187,557 03/07/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/202,546

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for providing immersive surveillance

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/23/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/202551 Patent No.: 6888740

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.

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

Comments: _____

SPE

2827
Art Unit

UNITED STATES 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
NOV 30 2009
OFFICE OF PETITIONS

Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Patent No. 6,790,963	:	
Issue Date: September 14, 2004	:	
Application No. 10/202,567	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 06897-002008	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 10, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

As to item (1) the statement of unintentional delay is presently not acceptable since the petition not signed by all the inventors. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The 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. A copy of Form No. PTO/SB/123 (Change of Correspondence Address) is attached to this 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

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 should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Long Y. Chiang
3 Tuttle Drive
Acton, MA 01720

Attachment: Form No. PTO/SB/123

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 16 2010

OFFICE OF PETITIONS

OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

In re Patent No. 6,790,963	:	
Issue Date: September 14, 2004	:	
Application No. 10/202,567	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 60029-002001	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 26, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 14, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/202,567	07/24/2002	Long Y. Chiang	60029-002001

CONFIRMATION NO. 6022

POA ACCEPTANCE LETTER

69713
OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE, MA 02138

OC000000040570953

Date Mailed: 03/12/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/08/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

COPY MAILED

NOV 04 2003

OFFICE OF PETITIONS

In re Application of
Lee et al.
Application No. 10/202,586
Filed: July 24, 2002
For: EXTRACTS OF CACAO AND CACAO BEAN HUSK WITH INHIBITORY EFFECTS ON CARCINOGENESIS
Attorney Docket No: 10981-021-999
Pub. No.: US 2003/0129269 A1
Pub. Date: July 10, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received on September 10, 2003, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

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

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

PMG900C APC PreGrant Publication

File • Edit Window Help

Application

Application Number 10202586 Confirmati n No: 8003

Effective/Priority Filing Dat 10/18/2001

Actual Filing Date: 07/24/2002

Title of Invention: Extracts of cacao and cacao bean husk with inhi

Indicators

- [ ] Non Pub
- [ ] Early Pub
- [ ] Rescind Non Pub

Filing Type	Status Description	Projected Pub Date	Projected Export Dt	Actual Export Dt	System Cd
PTOCOF	Pub Processing	02/19/2004	12/18/2003		PA
NEW	Published	07/10/2003	05/08/2003	05/08/2003	PA

OK Cancel Print

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE SC 29602-0447

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Brent Skidmore et al.	:	
Application No. 10/202,596	:	DECISION ON PETITION
Filed: July 24, 2002	:	TO WITHDRAW
Attorney Docket No. 032743.00004	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 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. 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 Douglas W. Kim on behalf of all attorneys/agents associated with customer number 27863. All attorneys/agents associated with customer number 27863 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. Brent T. Skidmore
Post Office Box 3917
Greenville, SC 29608

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/202,596	07/24/2002	Brent Skidmore	032743.00004

CONFIRMATION NO. 3801

POWER OF ATTORNEY NOTICE

27863
MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

OC000000041074498

Date Mailed: 04/12/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2010.

- 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 Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES 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

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

MAIL

APR - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Avni, et al.)
Application No. 10/202,608)
Filed: July 25, 2002)
For: APPARATUS AND METHOD FOR CONTROLLING ILLUMINATION IN AN IN-VIVO IMAGING DEVICE)

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on March 1, 2004 pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for 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 has met 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
www.uspto.gov

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

COPY MAILED
JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of	:
Lawrence Greenfield et al	:
Application No. 10/202,611	: DECISION GRANTING PETITION
Filed: July 23, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4804 US	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

An acceptance of the revocation and power of attorney filed on June 22, 2005 is being mailed under separate cover. Petitioner should note that the limited authorization to act on behalf of assignee in this case expires on December 31, 2006. Accordingly, petitioner herein should monitor this case and take appropriate action to submit a power of attorney prior to expiration of the December 31, 2006 date.

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

This matter is being referred to Technology Center AU 1637 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\313\202611.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

KATHRYN A. MARRA
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

COPY MAILED

FEB 26 2003

OFFICE OF PETITIONS

In re Application of Chernoff, et al. Application No. 10/202,620 Filed: July 24, 2002 Atty. Dkt. No.: GP-302658 For: VEHICLE BODY INTERCHANGEABILITY	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 27, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Tucker J. Johnson 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 26 2003

OFFICE OF PETITIONS

TUCKER J. JOHNSON
2027 LAKE ANGELIS ROAD
LAKE ANGELUS, MI 48326

In re Application of :
Chernoff, et al. :
Application No. 10/202,620 : LETTER
Filed: July 24, 2002 :
Atty. Dkt. No.: GP-302658 :
For: VEHICLE BODY :
INTERCHANGEABILITY :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

MAILED

SEP 0 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
BLERKOM, DANIEL VAN	:	
Application No. 10/202,622	:	DECISION ON REQUEST TO
Filed: July 22, 2002	:	WITHDRAW AS ATTORNEY
For: **VARIABLE PIXEL CLOCK ELECTRONIC SHUTTER CONTROL**	:	

This is a decision on the request to withdraw as attorney/agent of record filed on December 27, 2002.

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

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the assignee on March 7, 2003.

Accordingly, the request is **DISMISSED AS MOOT**.

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.

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

cc: THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MAIL

APR - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

In re Application of)
Glukhovsky, et al.)
Application No. 10/202,626)
Filed: July 25, 2002)
For: **DIAGNOSTIC DEVICE USING DATA COMPRESSION**)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on February 13, 2004 pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for 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 has met 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

Technology Center 1700.

JUL 2 7 2004

Mailed:_____

rvk

Paper Number:_____

In re application of
Mario Pinton et al.
Serial No. 10/202,655
Filed: July 25, 2002
For: PROCESS FOR THE PREPARATION OF WATER REPELLENT MATERIALS MADE OF ACRYLIC FIBRE:

DECISION ON PETITION

This is a response to the "PETITON TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R.1.181", filed April 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 08, 2004, for failure to timely file a proper response to the Office letter dated July 30, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of July 30, 2003 on November 24, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of July 30, 2003 in a timely manner. The evidence provided includes : 1) a copy of the Amendment and Request for Reconsideration to the Office letter of July 30, 2003 and Petition for one-month Extension of Time with an executed Certificate of Mailing dated November 24, 2003; and 2) a copy of the returned stamped postcard confirming receipt of the Amendment and Petition for one-month Extension of Time by the USPTO dated November 24, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The case will be forwarded to the Technical Support Staff for entering of the Response of November 24, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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

MAILED

JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:
Shinichi Ito	:
Patent No. 7,371,434	: LETTER REGARDING
Issued: 05/13/2008	: PATENT TERM ADJUSTMENT
Application No. 10/202,657	:
Filed: 07/25/2002	:
Docket No. 04329.2861	:

This is in response to the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed July 14, 2008. Pursuant to patentee's duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED TO THE EXTENT INDICATED**.

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 sixty-three (63) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On January 10, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 92 days.

On April 7, 2008, applicant submitted the issue fee, along with a "Notice of Error In the Determination of Patent Term

Adjustment" requesting that the patent term adjustment be reduced from ninety-two (92) days to sixty-one (61) days.[1]

On May 13, 2008, the above-identified application issued as U.S. Patent No. 7,371,434. The Patent Term Adjustment at issuance was 92 days.

On July 14, 2008, patentees submitted the instant comment, again requesting review of the patent term adjustment.

Patentees have specified no basis for their assertion that the patent term adjustment should be reduced.

A review of the application history reveals that patentees are correct in that the patent term adjustment should be recalculated. On January 18, 2007, a final Office action was mailed. On May 17, 2007, four (4) months and twenty-nine (29) days after the mailing of the final Office action, a request for continued examination was filed.

37 CFR 1.704(b) states that with respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, 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 that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. Accordingly, a period of reduction of 29 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is 63 days (182 days of Office delay - 119 (90+29) days of applicant delay). To the

[1] The comment was inadvertently not addressed by the Office prior to issuance of the patent.

extent that patentee is aware of any specific error in PTA calculation, patentee should so advise the Office.

As the instant letter was submitted to advise the Office of an error in Patentee's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application is being referred to the Certificate of Correction Branch for issuance of a certificate of correction 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 SIXTY-THREE (63) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,371,434 B2

DATED : May 13, 2008

INVENTOR(S) : Shinichi Ito

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 (92) days

Delete the phrase "by 92 days" and insert – by 63 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

JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Cooper et al.	:	
Application No. 10/202,668	:	DECISION ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 120745.00003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, 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 December 9, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 9, 2008. Accordingly, the date of abandonment of this application is December 10, 2008. A Notice of Abandonment was mailed January 7, 2009.

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the request for a change of correspondence address therefore cannot be accepted. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Joseph P. Lally
100 Congress Avenue, Suite 1100
Austin, Texas 78701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/06

TO SPE OF : ART UNIT **2635**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/202673 6954151

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 2635

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE, WA 98119

COPY MAILED

FEB 15 2007

OFFICE OF PETITIONS

In re Application of	:
Cerretti	: DECISION ON APPLICATION
Application No. 10/202,675	: FOR PATENT TERM ADJUSTMENT
Filed: July 23, 2002	:
Atty. Dkt. No.: 2862-USA	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed December 19, 2006.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed September 20, 2006, indicated a patent term adjustment (PTA) to date of 467 days. The issue fee payment and the instant application for PTA were timely filed December 19, 2006.

The correct PTA at the time of the allowance is 476 days, as indicated on the Determination of Patent Term Adjustment mailed September 20, 2006.

Applicant argues that the application is entitled to an adjustment of 792 days. Applicants do not dispute the reduction of 27 days under 37 CFR 1.705(b) nor the reduction of nine days under 37 CR 1.705(b).

However, applicant argues that the adjustment of 503 days under 37 CFR 1.702(a)(1) and 1.703(a)(1) is in error, and, further, argue that the correct adjustment is 828 days. Applicant argues that the first Office communication within the meaning of 35 USC 132 was not mailed until December 29, 2005. Petitioner argues that the non-final Office action mailed February 7, 2005 contained defects and that a supplemental non-final Office action was mailed June 2, 2005. A reply to the supplemental non-final Office action was received September 29, 2005. A second non-final Office action was mailed December 29, 2005.

Applicant's arguments have been carefully considered, but are not convincing. An adjustment of 467 days under 37 CRF 1.702 can be

attributed to the Office. The adjustment began September 24, 2003, the day after the date that is 14 months after the date that the application was filed, and ended February 7, 2005, the date that the non-final Office action was mailed. *See* 37 CFR 1.703(a)(1).

The mailing of a supplemental non-final Office action on June 2, 2005 and the mailing of a second non-final Office action December 29, 2005 does not negate the fact that an Office communication within the meaning of 35 USC 132 was mailed February 2, 2005.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 467 days as indicated in the Determination of Patent Term Adjustment mailed September 20, 2006.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

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

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

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

Day : Thursday

PALM INTRANET

Date: 1/4/2007
Time: 09:53:49

PTA Calculations for Application: 10/202675			
Application Filing Date:	07/23/2002	PTO Delay (PTO):	503
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	36
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	09/20/2006	MAIL NOTICE OF ALLOWANCE			
43	09/20/2006	MAIL OATH OF DECLARATION REQUIRED			
42	09/20/2006	MAIL EXAMINER'S AMENDMENT			
41	09/18/2006	ISSUE REVISION COMPLETED			
40	09/18/2006	OATH OR DECLARATION REQUIRED			
39	09/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	09/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
37	09/14/2006	EXAMINER'S AMENDMENT COMMUNICATION			
36	09/14/2006	NOTICE OF ALLOWABILITY			
35	08/15/2006	DATE FORWARDED TO EXAMINER			
34	08/01/2006	AMENDMENT AFTER FINAL REJECTION			
33	05/26/2006	MAIL FINAL REJECTION (PTOL - 326)			
32	05/23/2006	FINAL REJECTION			
31	04/12/2006	DATE FORWARDED TO EXAMINER			
30	04/07/2006	RESPONSE AFTER NON-FINAL ACTION		9	28
29	04/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/29/2005	MAIL NON-FINAL REJECTION			
27	12/27/2005	NON-FINAL REJECTION			
26	10/13/2005	DATE FORWARDED TO EXAMINER			
25	09/29/2005	RESPONSE AFTER NON-FINAL ACTION		27	22
24	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	06/02/2005	MAIL SUPPLEMENTAL NON-FINAL ACTION			
21	05/31/2005	SUPPLEMENTAL NON-FINAL ACTION			

20	02/07/2005	MAIL NON-FINAL REJECTION	503		-1
19	02/04/2005	NON-FINAL REJECTION			
18	09/17/2004	PRELIMINARY AMENDMENT			
15	09/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	04/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	07/23/2002	REFERENCE CAPTURE ON IDS			
12	07/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/23/2002	PRELIMINARY AMENDMENT			
10	04/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	09/18/2002	APPLICATION DISPATCHED FROM OIPE			
8	09/18/2002	APPLICATION IS NOW COMPLETE			
6	09/10/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	07/23/2002	INITIAL EXAM TEAM NN			
3	07/23/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	08/07/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/23/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE, WA 98119

COPY MAILED

MAY 18 2006

OFFICE OF PETITIONS

In re Application of

Lyman, et al.

Application No. 10/202,699

Filed: July 23, 2002

Attorney Docket No.3255-A

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 13, 2006.

The petition is **granted**.

This application was held abandoned April 4, 2005, after no reply was received to the restriction/election requirement mailed March 3, 2005. The notice set forth a period of reply of one month from its mailing date. Extensions of the time set for reply under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on April 4, 2005. A Notice of Abandonment was mailed January 13, 2006. The instant petition was filed on March 13, 2006. Petitioner maintains that the notice of March 3, 2005, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1600, GAU 1646 where the time period for responding to the restriction/election requirement will be restarted and a new notice will be mailed to that effect.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#5
DW

JUN 16 2004

Christopher J. Fildes
Fildes & Outland, P.C.
Suite 2
20916 Mack Avenue
Grosse Pointe Woods MI 48236

MAILED

JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Hideo Nakayama et al.
Application No. 10/202,709
Filed: July 24, 2002
For: CLUTCH HYDRAULIC MECHANISM

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 7, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that a non-final Office action was mailed to applicant on September 10, 2003. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on May 3, 2004.

Petitioner states that the Office action was never received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses of the firm of Fildes & Outland, P.C. with the due date of December 10, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petition fails to adequately meet requirements (2) and (3) above.

As per requirement (2), the petition does not state that a search of all docket records of the firm of Fildes & Outland, P.C. was conducted.

As per requirement (3), the copy of the docket record provided appears to list only those applications assigned to Mr. Fildes and not the entire firm of Fildes & Outland, P.C.

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."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

KJD/mjz: 6/8/04

#7
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 21 2004

Christopher J. Fildes
Fildes & Outland, P.C.
Suite 2
20916 Mack Avenue
Grosse Pointe Woods, MI 48236

MAILED
JUL 21 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Hideo Nakayama et al.	:	DECISION ON PETITION
Application No. 10/202,709	:	TO WITHDRAW THE
Filed: July 24, 2002	:	HOLDING OF ABANDONMENT
For: CLUTCH HYDRAULIC MECHANISM		

This is a decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 6, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a non-final Office action was mailed to applicant on September 10, 2003. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on May 3, 2004.

Petitioner states that the Office action was never received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of December 24, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed May 28, 2002 failed to meet requirement (3) above.

Applicant's renewed petition provides a statement that a search of all docket records of the firm was conducted and a copy of the docket record showing all actions due by practitioner's office at and around the due date of December 10, 2003. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action of September 10, 2003 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

SNM/vdb: 7/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Application of Anand G. Dabak et al. Application No. 10/202,743 Filing Date: July 25, 2002 Attorney Docket Number: TI-28441.3 Title: SPACE TIME BLOCK CODED TRANSMIT ANTENNA DIVERSITY FOR WCDMA	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 May 9, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed October 3, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on February 27, 2006 along with a two-month extension of time, and an advisory action was mailed on March 14, 2006. No extensions of time under the provisions of

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

37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on March 4, 2006.

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

With the present petition, Petitioner has submitted the petition fee, a notice of appeal and the associated fee, an appeal brief and the associated fee, and a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the appeal brief which was received with the present petition can be processed.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski

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

cc: Robert N. Rountree
Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

PATENT DOCKET ADMINISTRATION
RAYTHEON SYSTEMS COMPANY
P.O. BOX 902 (E1/E150)
BLDG E1 M S E150
EL SEGUNDO CA 90245-0902

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of	:
Alexander A. Betin et al	:
Application No. 10/202,752	: DECISION ON PETITION
Filed: July 25, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PD-01W090	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;[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)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 25, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/350,630, which was filed on November 13, 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

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 de Seversky, *supra. Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

By hand: Customer Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

---

[2]Note 37 CFR 1.121

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DOCKET ADMINISTRATION
RAYTHEON SYSTEMS COMPANY
P.O. BOX 902 (E/E150)
BLDG E1 M S E150
EL SEGUNDO, CA 90245-0902

COPY MAILED

DEC 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Alexander A. Betin et al	:	
Application No. 10/202,752	:	DECISION ON PETITION
Filed: July 25, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PD-01W090	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/350,630.

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 25, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/350,630, which was filed on November 13, 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. 60/350,630 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 (571) 272-3208.

The examiner of Technology Center AU 2821 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/350,630, filed November 13, 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

MAILED

NOV 19 2004

Technology Center 2100

GARLICK HARRISON & MARKISON, LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

In re Application of: Hayter, et al.
Application No. 10/202,753
Filed: July 25, 2002
For: SYSTEM ON A CHIP FOR PACKET PROCESSING

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed July 25, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) **Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;**

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed July 25, 2002 fails to adequately meet requirement (b) of the criteria set forth above. With respect to requirement (b), Petitioners fail to indicate that "all claims are directed to a single invention, or if the Office determines that all of the claims presented are not obviously directed to a single invention, an election will be made without traverse **as a prerequisite** to the grant of special status". Such statement is missing from the instant petition and required for the grant of special status.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 11/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Winterton, et al.	:	
Application No. 10/202,758	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. CL/V-30339C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed April 13, 2004. Accordingly, this application became abandoned on July 14, 2004. A Notice of Abandonment was mailed on November 17, 2004.

The file is being forwarded to Technology Center 1700, for review of the amendment, filed March 3, 2005, *in due course.*

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

102003

Norman R. Klivans
SKJERVEN MORRILL LLP
25 Metro Drive, Suite 700
San Jose, CA 95110-1349

OCT 10

In re Application of	)	
Ill Heung Choi et al.	)	
Application No.10/202,764	)	DECISION ON REQUEST TO
Filed: July 24, 2002	)	WITHDRAW FROM RECORD
Attorney Docket No. AB-1066-ID US	)	

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 should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Norman R. Klivans on behalf of all attorneys of record, Customer Nos. 24251 and 27869. There was no appointment of attorneys associated with these cunstomer numbers. Accordingly, the request is approved for all attorneys currently of record..

The request is APPROVED.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. This decision results in the application having no attorney of record.

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

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc. 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
www.uspto.gov

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
P.O. BOX 5052
TROY MI 48007

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Craig A. Osterday et al :
Application No. 10/202,771 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. DP-305346 :

This is a decision on the petition, filed May 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3683 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : May 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Craig A. Osterday et al
Application No. :10/202,771
Filed :July 24, 2002

The above-identified application has been assigned Patent No. 6,896,107 and an issue date of May 24, 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 24, 2005:

"All reference to Patent No. 6,896,107 to Craig A. Osterday et al of Ohio for ELECTRICALLY ACTUATED DISC BRAKE ASSEMBLY appearing in the Official Gazette of May 24, 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

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

APR 22 2003

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

In re Application of	:
James Holwerda et al	:
Serial No.: 10/202,787	: PETITION TO MAKE SPECIAL
Filed: July 24, 2002	:
Attorney Docket No.: 021548-000100	:

This is in response to applicants' petition filed September 19, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition is regretted.

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, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

COPY MAILED

JAN 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Sinha, et al.	:	
Application No. 10/202,802	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 7416/87955	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of November 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. The amendment after final, filed May 22, 2007, did not place this application in *prima facie* condition for allowance. Accordingly, the date of abandonment of this application is May 23, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2613 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON, DC 20005

MAILED

FEB 2 8 2006

Technology Center 2100

In re Application of: Brian Kane et al.
Application No. 10/202,864
Filed: July 26, 2002
For: METHOD AND SYSTEM FOR ERROR HANDLING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 25, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, George T. Marcon is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address. A power of attorney was filed on October 6, 2004 and the power of attorney was granted.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the appointed attorney address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Patent No. 6,954,867	:	
Issue Date: October 11, 2005	:	
Application No. 10/202,867	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 26, 2002	:	
Attorney Docket No.	:	
14917.1085US01/MS30030.01		

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.

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 the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

cc: **KENDAL M. SHEETS**
CPA NORTH AMERICA, LLC
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070220

DATE : February 20, 2007

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,606

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:

Eric Kessel for

SPE: Robin Evans **Art Unit** 3742

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

COPY MAILED

JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:
Jun Koyama et al	:
Application No. 10/202,873	: DECISION GRANTING PETITION
Filed: July 26, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7016	:

This is a decision on the petition, filed January 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
MAY 15 2006
OFFICE OF PETITIONS

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

In re Application of	:	
Jun Koyama et al	:	
Application No. 10/202,873	:	ON PETITION
Filed: July 26, 2002	:	
Attorney Docket No. 0756-7016	:	

This is a decision on the petition, filed May 12, 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 May 26, 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 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

NITED STATES 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
P.O. BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

JUL 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takashi Ogino et al :
Application No. 10/202,884 :
Filed: July 26, 2002 :
Attorney Docket No. 0505-1074P :

This is a decision on the petition, filed July 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2863 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

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

MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Roy Lim	: DECISION ON REQUEST FOR
Patent Number	: 7572276	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/202,918	: OF WYETH
Filed	: 07/25/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BRIGGS AND MORGAN
PROFESSIONAL ASSOCIATION
2400 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of Gunther Steinle Application No. 10/202,919 Filed: July 25, 2002 Attorney Docket No. 32226.35	: : : : :	DECISION ON PETITION

This is a decision on the "Petition for Correction of Filing Date," filed December 18, 2002, requesting that the above-identified application be accorded a filing date of July 24, 2002. This petition is being treated as a request for waiver of the requirements of § 1.10 such that an application prepared for deposit in the USPS "Express Mail" service deposited in regular mail be accorded the benefits of § 1.10.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. Extensions of time pursuant to 37 C.F.R. § 1.136 are **not** permitted. See § 1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.183."

Petitioner asserts by affidavit of customer service manager Douglas McCulloch that the above-identified application was designated by the law firm as "Express Mail" and taken to the U.S. Post Office (USPS) on July 24, 2002. However, the courier delivered the package to the wrong dock of the USPS, and as a result, there is no "Express Mail" label and the application was processed by the USPS as regular mail. Petitioner argues, that under these circumstances, the application filing date should be corrected to July 24, 2002.

RELEVANT STATUTES and RULES

§ 1.183 Suspension of rules.

> 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 Commissioner or the Commissioner'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(h).

Paragraph (a) of 37 C.F.R. § 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(Emphasis supplied).

Paragraph (b) of 37 C.F.R. § 1.10 provides that:

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

Paragraph (d) of 37 C.F.R. § 1.10 provides that:

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

OPINION

A review of the application-as-filed reveals that the application was prepared to be delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) under "Express Mail" mailing label number ET761109875US with a date of deposit of July 24, 2002. However, petitioner indicates that due to the error of their employee, the correspondence was deposited in and delivered to the Office by way of regular mail.

The evidence of record reveals that the number of the "Express Mail" mailing label, ET761109875US, is on the application transmittal for the correspondence of record presently accorded a filing date of July 25, 2002, and thus, was placed on the correspondence prior to the original mailing.

Petitioner states that the application was not delivered by the "Express Mail Post Office to Addressee" service of the USPS. Petitioner has not submitted a copy of the "Express Mail" mailing label. Petitioner has not submitted any declarations of postal service employees to support a conclusion that the correspondence should have been treated as deposited in the "Express Mail" service of the USPS on July 24, 2002, despite the error of the deliverer. It is further noted that the application was received in the Office on July 26, 2002 and accorded a filing date of July 25, 2002. The mailing label is not retained in the application file. However, the according of the July 25, 2002, suggests that the application was delivered by way of the "Express Mail" service of the USPS with a "date-in" shown of July 25, 2002. Thus, the submission of a copy of the "Express Mail" label with a "date-in" of July 24, 2002; evidence from the USPS showing a date of deposit of July 24, 2002; or other persuasive evidence is necessary to overcome a conclusion that the correspondence was, in fact, deposited in the "Express Mail" service on July 25, 2002, not July 24, 2002 as alleged.

Moreover, petitioner employed a system of depositing the correspondence whereby the depositor would not immediately receive a copy of the "Express Mail" mailing label. Section 1.10(b)specifically advises applicants that persons dealing indirectly with the employees of the USPS do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. Persons using a courier, as petitioner did, render themselves susceptible to not being able to make a satisfactory showing under § 1.10.

Being unable to show compliance with § 1.10 due to failure to deal directly with the USPS and obtain an "Express Mail" mailing label is not an extraordinary situation. In the instant case, the applicant's representative dealing indirectly with the USPS inadvertently deposited the "Express Mail" package in regular mail. The Office has addressed a similar depositing error, where an applicant inadvertently deposits the application in a drop box after the last pick-up of the day. Such an applicant is not able to rely on a certificate of mailing by Express Mail to establish the date of mailing, but will be bound by the date of receipt entered by the Postal Service Clerk as shown on the "Express Mail" mailing label. In the final rulemaking published on January 20, 1983, at 48 FR 2696-2714 and on February 1, 1983, at 1027 O.G. 9, the following comment appears:

> Comment: One person questioned what treatment will be accorded a paper placed in an 'Express Mail' box receptacle

after the box has been cleared for the last time on a given day.

Reply: The paper will be considered to be deposited as of the date of receipt indicated on the 'Express Mail' mailing label by the Postal Service clerk.

Having considered the arguments and evidence submitted on petition, it is concluded that petitioner has not met the requirements of 37 CFR § 1.10, and thus, is not entitled to the benefits of § 1.10. Furthermore, under the circumstances of applicant's failure to comply with the requirements of § 1.10, it is concluded that the situation is not extraordinary, and justice does not require waiver of the requirements i) that the correspondence be deposited in the "Express Mail" service of the USPS, and ii) that a copy of the "Express Mail" mailing label showing the date-in requested be submitted on petition.

CONCLUSION

The application with a filing date of July 25, 2002, is being forwarded to Technology Center 2873 for examination in due course.

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[1]

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

---

[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

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)
6,758,813	2004-07-06	10202929	2002-07-25	

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 J Clark/	Date (YYYY-MM-DD)	2009-10-19
Name	Bruce J. Clark	Registration Number	31339

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. 6758813
Issue Date: July 6,2004
Application No. 10202929
Filed: July 25,2002
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed October 19,2009 ,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 19,2009 .
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

Paper No. 7

ALBEMARLE CORPORATION
451 FLORIDA STREET
BATON ROUGE LA 70801-1765

COPY MAILED
MAY 08 2003
OFFICE OF PETITIONS

In re Application of	:
Howarth and Peters	:
Application No. 10/202,954	: DECISION REFUSING STATUS
Filed: 25 July, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. SU-7250	:

This is in response to the petition filed under 37 CFR 1.47(a) on 28 March, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 July, 2002, without an executed oath or declaration. Accordingly, on 30 August, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring a signed oath or declaration and a surcharge for its late filing. In response, on 28 March, 2003, petitioners filed, *inter alia*, the present petition and petition fee, a declaration naming Jonathan N. Howarth and Bruce C. Peters as joint inventors and signed by joint inventor Peters on behalf of himself and joint inventor Peters. Petitioners assert that Howarth cannot be reached at his last known address.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the

oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not shown proof that a copy of the application (specification, including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor (or his counsel) for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must provide proof that the inventors have refused to sign the declaration.[2] If there is a written refusal, petitioners should submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If application papers sent to the non-signing inventor at his last known address are returned as undeliverable, petitioners may show proof that diligent efforts have been made to locate the non-signing inventor(s) by providing a copy of an envelope showing that a letter sent to the last known address of the non-singing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, if an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand

---

[1] MPEP 409.03(d).

[2] Id.

knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration. If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

The petition fee of $130.00 will be charged to counsel's deposit account, No. 01-0659 as authorized on the transmittal letter filed on 28 March, 2003.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 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

UNITED STATES 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. 12

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE, LA 70801

COPY MAILED
APR 2 3 2004
OFFICE OF PETITIONS

In re Application of
Howarth, et al.
Application No. 10/202,954
Filed: July 25, 2002
Attorney Docket No. SU-7250

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 8, 2004, to revive the above-identified application. This also a decision on the petition under 37 CFR 1.137(b) filed in the alternative on March 8, 2004.

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

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

The above-identified application became abandoned for failure to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed May 8, 2003, that allowed an extendable period for reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on July 9, 2003. A Notice of Abandonment was sent on January 20, 2004.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner essentially asserts that a clerical and or docketing error resulted in a delay in responding to the "Decision Refusing Status Under 37 CFR 1.47(a)."

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail is addressed below.

When a clerical error is alleged to be the reason for the delay in responding to an Office action, Section 711.03(c) of the *Manual of Patent Examining Procedure* explains that petitioner must establish that:

> (A) the error was the cause of the delay at issue;
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

In this case, petitioner is arguing that a docketing error resulted in the decision of May 8, 2003, not being brought to the attention of the attorney of record. Petitioner has not established, however, that there was a reliable business routine in place for performing the docketing function and did not provide specific information regarding the training and experience of the employee(s) charged with that function. The petition under 37 CFR 1.137(a) is, therefore, dismissed.

---

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

TREATMENT UNDER 37 CFR 1.137(b)

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

The declaration filed March 8, 2004, is noted and made of record.

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

The application file will be forwarded to Technology Center 1600 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

1-12-09

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

Patent No. : 6,965,035 B2
Ser. No. : 10/202,954
Inventor(s) : Jonathan H. Howarth, et. al.
Issued : November 15, 2005
Title : COMPACTED FORMS OF HALOGENATED HYDANTOINS
Docket No. : SU-7250

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.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Albemarle Corporation Patent Department
451 Florida Street
Baton Rouge LA 70801

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE, LA 70801

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Jonathan N. Howarth et al :
Application No. 10/202,954 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. SU-7250 :

This is a decision on the petition, filed January 29, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the assignee's name is ALBEMARLE CORPORATION and that the assignee's name was left off the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to ALBEMARLE CORPORATION.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by the request for certificate of correction's $100 fee which is required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

A review of Office database assignment records reflects that an assignment to ALBEMARLE CORPORATION has been recorded. Therefore, upon submission of the required certificate of correction's $100 fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that ALBEMARLE CORPORATION was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction's $100 fee which sets forth ALBEMARLE CORPORATION, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request; since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

OCT 23 2009

OFFICE OF PETITIONS

ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE, LA 70801

In re Patent No. 6,965,035	:	
Issue Date: November 15, 2005	:	
Application No. 10/202,954	:	ON PETITION
Filed: July 25, 2002	:	
Attorney Docket No. SU-7250	:	

This is a decision on the renewed petition filed April 3, 2009, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JONATHAN H. HOWARTH ET AL.	)	
PATENT NO.: 6,965,035 B2	)	**ART UNIT NO. 1626**
ISSUED: NOVEMBER 15, 2005	)	
APPLICATION NO.: 10/202,954	)	**EXAMINER: SAEED, KAMAL A.**
CONFIRMATION NUMBER: 6511	)	
FILED: JULY 25, 2002	)	
FOR: COMPACTED FORMS OF HALOGENATED HYDANTOINS	)	

Commissioner for Patents
Office of Patent Publication
Attn: CERTIFICATE OF CORRECTION BRANCH
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

SECOND REQUEST TO CORRECT ASSIGNEE UNDER 37 C.F.R. 3.81(b)

In accordance with 37 C.F.R. 3.81(b), Patentees for the above-captioned patent requested a correction, to list the Assignee on the face of the patent. Applicant inadvertently failed to include the Assignee name on the PTOL-85B form filed on July 11, 2005. This request was filed on January 29, 2009; however, the required correction fee was not submitted with the document.

The fee for the correction as set forth in 37 CFR 1.20(a) accompanies this request. The fee as set forth in 37 CFR 1.17(i) accompanied the request filed on January 29, 2009.

Enclosed herewith is a copy of the Notice of Recordation of Assignment Document recorded on July 11, 2005, at Reel/Frame 016760/0518.

Adjustment date: 10/23/2009 CKHLOK
04703/2009 INTEFSW 00008117 010659 10202954
01 FC:1811 100.00 CR

10/23/2009 CKHLOK 00000002 010659 6965035

01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

Adjustment date: 10/23/2009 CKHLOK
01730/2009 INTEFSW 00001638 502768 10202954
01 FC:1464 130.00 CR

Also enclosed is the decision issued by the Office of Petitions on February 17, 2009, instructing the Certificates of Corrections Branch to issue a Certificate of Correction upon the payment of the required correction fee.

Accordingly, Applicants request issuance of a Certificate of Correction.

Respectfully submitted,

/Mary H. Drabnis/

Mary H. Drabnis
Reg. No. 45,909
McGlinchey Stafford, PLLC
301 Main Street, 14th Floor
Baton Rouge, LA 70802
Telephone: (225) 383-9000
Facsimile: (225) 382-3729

CERTIFICATE OF SUBMISSION

I hereby certify that, in the course of ordinary business, this paper (along with any referred to as being attached or enclosed) is being submitted on the date indicated below to the United States Patent and Trademark Office via EFS-Web.

April 3, 2009
Date

/Tara L. Richard/
Tara L. Richard

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

In re Application of
Charles David ADAIR
Application No. 10/202,957
Filed: July 25, 2002
Attorney Docket No. 67980/002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 7, 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 Rebecca J. Brandaus on behalf of all attorneys of record who associated with customer No. 29493.

All attorneys/agents associated with Customer Number 29493 have been withdrawn.

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

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

There is an outstanding Office action mailed December 13, 2006 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: CHARLES DAVID
22 MOUNTAIN ORCHARD PATH
SIGNAL MOUNTAIN, TN 37377

cc: HUNTON AND WILLIAMS LLP
1900 K STREET N.W.
WASHINGTON, DC 20006-1109

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/202,957	07/25/2002	Charles David Adair	67980/002

CONFIRMATION NO. 6541

OC000000024084174

29493
HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

Date Mailed: 05/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/07/2007.

- 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.

Diane Goodwin

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

JAN - 4 2005

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:
Dennis J. Gray et al	:
Serial No.: 10/202,964	: PETITION DECISION
Filed: July 25, 2003	:
Attorney Docket No.: 07678/038007	:

This is a response to the petitions under 37 CFR 1.59(b), filed September 13, 2004, to expunge information from the above identified application. This application has been examined.

Petitioner requests that a document submitted September 13, 2004, as a Proprietary 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.

This is an examined application. As such the information provided has been reviewed. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements. This application has not been allowed.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,899,040	2005-05-31	10/202,972	2002-07-24	3468P2517

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey D. Moy/	Date (YYYY-MM-DD)	2009-11-05
Name	Jeffrey D. Moy	Registration Number	39307

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6899040
Issue Date: May 31,2005
Application No. 10202972
Filed: July 24,2002
Attorney Docket No. 3468P2517

:

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

:

This is a decision on the electronic petition, filed November 5,2009 ,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 November 5,2009 . 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

Carstens Yee & Cahoon, LLP
P. O. Box 802334
Dallas, TX 75380

COPY MAILED

JUL 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Anthony R. Knoerzer, et al.	:	
Application No. 10/202,981	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. CFLAY.00153	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee, publication fee, and drawings.

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, publication fee, and drawings; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee, publication fee, and drawings, 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

Paper No. 6

FISH & NEAVE
1251 AVENUE OF THE AMERICAS, 50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of
Emil Wolf et al
Application No. 10/202,983
Filed: July 24, 2002
Attorney Docket No. 3546/072CIP

:DECISION DISMISSING
:PETITION UNDER
:37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(f),[1] filed April 20, 2003, to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on July 24, 2003, 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 agreement, that requires publication at eighteen months after filing [emphasis supplied]."

Petitioner states that the instant application is a continuation-in-part of U.S. Application No. 09/843,343, which claims the benefit of provisional patent application No. 60/201,562. Petitioner also states that a counterpart of the parent application was filed under the Patent Cooperation Treaty (PCT)[2] and was published under the PCT on November 8, 2001. The issues set out by petitioner are:

1. Whether the earlier PCT filing of <u>the parent application</u> contradicts the certification in applicants' nonpublication request in

---

[1] 37 CFR 1.137(f) 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.

[2] The petition does not state the date of filing of the PCT application; however, in view of the statement that the PCT application was published on November 8, 2001 and Office PALM Intranet database records indicate that a PCT claiming the benefit of prior-filed provisional Application No. 60/201,562, it is presumed that the filing date of the PCT application is April 25, 2001, which date is prior to the filing date of the instant application.

> the CIP that "***the invention*** disclosed in the [CIP] application has not . . . be[en] the subject of an application filed . . . under a multilateral international agreement . . . that requires publication."
>
> 2. Whether, should the earlier PCT filing of the parent application be deemed to have contradicted applicants' certification in the nonpublication request, the application has been abandoned under 35 U.S.C. § 122(b)(B)(iii), which speaks literally only to "***subsequent*** fil[ing] . . . under a multilateral international agreement."
>
> 3. Whether, if the application has become abandoned, applicants' earlier-filed Rescission has been effective to revive the application.

Clarification is now requested as to the status of the instant application. If the application is deemed to be abandoned, petitioner requests revival 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 within 45 days of the filing of a corresponding international or foreign application.

In response to the issues raised by petitioner, 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 24, 2002, and a counterpart or corresponding foreign application was filed on April 25, 2001. 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. 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.

In view of the above and since this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f) is inappropriate and 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 August 21, 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). Accordingly, the petition fee of $1,300 will not be refunded.

This application is being forwarded to Technology Center AU 2653 for examination in due course.

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

Frances Hicks

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

ATTACHMENT: 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. 5

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

COPY MAILED

FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Forssman, et al.
Application No. 10/202,986
Filed: July 24, 2002
Attorney Docket No. 9409/2055
For: PROCESSED HUMAN
CHEMOKINES PHC-1 AND PHC-2

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed December 24, 2002 (certificate of mailing date December 18, 2002), requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 24, 2002 insofar as it alleges Figure 13 was omitted upon initial filing .

The application was deposited on July 24, 2002. On October 24, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 13 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 13 be accorded a filing date of July 24, 2002 on the basis that 21 sheets of drawing figures, including Figure 13, were received in the Patent and Trademark Office (PTO) on July 24, 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 24, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 21 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 21 sheets of drawing figures, including Figure 13, were filed on July 24, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 16-0085.

Petitioners are reminded that the other requirements found in the October 24, 2002 Notice must be satisfied within the extendable two month period set in the Notice.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of July 24, 2002, using the copy of Figure 13 submitted with the instant petition. Office records will be corrected to show that 21 sheets of drawings were present on filing. OIPE will review Figure 13 for compliance with 37 CFR 1.84.

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

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 11 2004

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON DC 20005

In re Application of	:
Veronique Ferrari et al	:
Serial No.: 10/203,018	: PETITION TO MAKE SPECIAL
Filed: March 24, 2003	:
Attorney Docket No.: 5725.0816-01	:

This is in response to applicants' petition filed February 27, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. 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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

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

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

COPY MAILED

MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Ferrari et a.
Application No. 10/203,018
Filed: August 5, 2002
For: COMPOSITION COMPRISING AT LEAST ONE POLYMER CONTAINING HETERO-ATOMS AND AT LEAST ONE INERT FILLER AND METHODS FOR USE
Attorney Docket No: 06267.0100
Pub. No.: US 2003/0161848 A1
Pub. Date: August 28, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received on October 28, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Michelle E. O'Brien
Finnegan, Henderson, Farabow
Garrett & Dunner
1300 I Street, N.W.
Washington, DC 2000

Date: December 29, 2004
Application No. 10/203,018
Filed: March 23, 2003
Subject: **COMPOSITION COMPRISING AT LEAST ONE POLYMER CONTAINING HETERO-ATOMS AND AT LEAST ONE INERT FILLER AND METHODS FOR USE**

ON PETITION
37 CFR 1.48

Receipt is acknowledged of the petition filed October 8, 2004 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, October 8, 2004, the Inventorship of this non-provisional, application has been changed by the **deletion CARLOS PINZON and PAUL THAU**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81
571-272-0602

0 3 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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

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

In re Application of ROSEN, Craig, et al. U.S. Application No.: 10/203,044 PCT No.: PCT/US01/26808 International Filing Date: 17 January 2001 Priority Date: 31 January 2000 Attorney's Docket No.: IAMA0004 For: NUCLEIC ACIDS, PROTEINS, AND ANTIBODIES	:	DECISION ON PETITION

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Under 37 CFR 1.495(b)(2)" filed on 06 December 2002, which is treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is required.

BACKGROUND

On 17 January 2001, applicants filed international application PCT/US01/26808 which claimed an earliest priority date of 31 January 2000 and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was thirty months from the earliest priority date, i.e., 31 July 2002.

On 02 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. It is noted that the transmittal letter indicated that the priority date was 04 February 2000, a date inconsistent with the earliest priority date set forth in the published international application.

On 21 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment indicating that the application was abandoned for failure to submit the basic national fee within thirty months of the priority date.

On 06 December 2002, applicants filed the petition contained herein. The petition argues that the holding of abandonment should be withdrawn based on applicants' 02 August 2002 payment of the basic national fee.

DISCUSSION

As set forth above, the earliest claimed priority date here is 31 January 2000. Accordingly, payment of the basic national fee was required by 31 July 2002 (thirty months from the priority date). However, as conceded in the present petition, applicants did not file the transmittal letter and basic national fee until 02 August 2002, after expiration of the thirty month deadline.

Pursuant to 37 CFR 1.495(g), the failure to submit the basic national fee within thirty months of the earliest priority date results in the abandonment of the application with respect to the United States. The mailing of the Notification Of Abandonment on 21 November 2002 was therefore appropriate.

CONCLUSION

For the above reasons, the petition for withdrawal of the holding of abandonment is **DISMISSED** without prejudice. The application remains abandoned with respect to the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw Holding Of Abandonment Under 37 CFR 1.181." No additional petition fee is required.

Alternatively, applicants may wish to consider filing a petition to revive the application under 37 CFR 1.137(b).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to attention of the PCT Legal Office.

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

26 AUG 20

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
KIEFFER, Robert	:	
U.S. Application No.: 10/203,044	:	DECISION ON
PCT No.: PCT/US01/03128	:	PETITION UNDER
International Filing Date: 31 January 2001	:	37 CFR 1.182
Priority Date: 04 February 2000	:	
Attorney's Docket No.: IAMA0004	:	
For: SYSTEM AND PROCESS FOR DELIVERING	:	
AND RENDERING SCALABLE WEB PAGES	:	

This decision is issued in response to the "Renewed Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.182" filed on 14 January 2003. Applicant will be charged the required $130 petition fee.

BACKGROUND

In a decision issued by this Office on 03 January 2003, applicant's original petition for revival was dismissed without prejudice.[1] The application remained abandoned based on the apparent failure of applicant to pay the basic national fee within thirty months of the priority date. The thirty month deadline applied in that decision, 31 July 2002, was based on the 31 January 2000 priority date claimed in PCT/US01/01328, the application identified in applicant's Form 1390 Transmittal Letter filed 02 August 2002.

On 14 January 2003, applicants filed the renewed petition under 37 CFR 1.182 considered herein.

DISCUSSION

The present petition asserts that the Form 1390 Transmittal Letter filed 02 August 2002 contained a typographical error in the listed international application. Specifically, the international application, listed as PCT/US01/01328, was intended to read PCT/US01/03128. Applicant note's in the petition that the intended application was identified in that the inventor, title, priority date, and international filing date for the intended application (PCT/US01/03128)

---

[1] The decision incorrectly identified the international application as PCT/US01/26808. The inventor, filing date, priority date, and title listed on the decision are correct with respect to international application PCT/US01/01328, the application identified by applicant in the original Transmittal Letter and declaration filed on 02 August 2002.

were present on the Transmittal Letter. The petition is accompanied by a corrected version of the Form 1390 Transmittal Letter that properly identifies the international application, and a modified version of the inventor's declaration which sets forth the proper international application number.

A review of the originally submitted papers, however, reveals that the desired international application number was never properly identified. The only instances where this number appeared (twice in the transmittal letter and once in the unsigned declaration) contained the incorrect international application number. Because the correct international application number was not present anywhere in applicant's 02 August 2002 submission, the payment included therein cannot be considered to have been made **with respect to international application PCT/US01/03128** prior to the expiration of the thirty month deadline in such application (i.e., 04 August 2002). Accordingly, international application PCT/US01/03128 became abandoned with respect to the United States as of midnight on 04 August 2002.

Based on applicant's statements in the present petition and the submission of the corrected Form 1390, the present application file, 10/203,044, will be corrected in USPTO records to represent a national stage of PCT/US01/03128. However, this application remains abandoned for failure to timely file the basic national fee.

Finally, it is noted that the original declaration filed by applicants on 02 August 2002 is acceptable under 37 CFR 1.497, although the error in the reference to the international application requires correction in a supplemental declaration. The present petition was accompanied by a copy of the declaration in which this reference was corrected; however, the corrected declaration was not re-executed by the inventor. Pursuant to MPEP § 602.01:

> The wording of an oath or declaration cannot be amended, altered, or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.

Accordingly, based on its post-signature modification, the corrected declaration filed with the present petition cannot be accepted.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**. Accordingly, the present application will be treated as a national stage of international application PCT/US01/03128.

However, as discussed above, the application remains abandoned with respect to the United States for failure to timely submit a payment of the basic national file that was directed to this specific international application.

Applicant might consider submitting a petition to revive the present application under 37 CFR 1.137(b).

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

RMR/LS:rmr

25 MAR 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of:	:	
KIEFFER, Robert	:	
U.S. Application No.: 10/203,044	:	DECISION ON
PCT No.: PCT/US01/03128	:	PETITION UNDER
International Filing Date: 31 January 2001	:	37 CFR 1.137(b)
Priority Date: 04 February 2000	:	
Attorney's Docket No.: IAMA0004	:	
For: SYSTEM AND PROCESS FOR DELIVERING	:	
AND RENDERING SCALABLE WEB PAGES	:	

The petition to revive under 37 CFR 1.137(b) filed 03 October 2003[1] in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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

The petition was accompanied by a newly executed declaration in compliance with 37 CFR 1.497, as required by the decision mailed herein on 26 August 2003.

As noted in the previous decision, based on applicant's petition under 37 CFR 1.182 (granted in the 26 August 2003 decision), the present application file has been corrected to correspond with the intended international application, that is, PCT/US01/03128.

---

[1] The originally filed petition is not present in the application file. However, based on applicant's 23 March 2004 submission of a copy of the petition, the accompanying return postcard that itemizes the petition and bears a USPTO receipt stamp dated 03 October 2003, and USPTO records indicating receipt of the petition fee on 03 October 2003, it is concluded that petition and accompanying materials resubmitted on 23 March 2004 were originally filed on 03 October 2003.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 August 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#7

2 9 MAY 2003

MILLIKEN COMPANY
920 Milliken Road M 495
Spartenburg, SC 29303-4995

In re Application of	:	
DE MEYER, Willy *et al*	:	
U.S. Application No.: 10/203,045	:	**DECISION**
PCT No.: PCT/EP01/01362	:	
Int. Filing Date: 08 February 2001	:	**UNDER**
Priority Date: 08 February 2000	:	
Attorney Docket No.: 9122A	:	**37 CFR 1.42**
For: HOSE AND PIPE REINFORCEMENT	:	

This decision is in response to declaration submitted on 10 March 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 27 September 2002, a Notification of Missing Requirements was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 was required. A two-month time limit was set for response.

On 10 March 2003, applicants filed a declaration signed by one of the two listed joint inventors and a supplemental declaration signed by Willie Faket as legal representative of deceased co-inventor, Mark Faket. Applicants included the surcharge fee and authorization to charge additional fees to counsel's Deposit Account.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a supplemental declaration signed by Willie Faket as legal representative of the deceased inventor, Mark Faket. The citizenship of the deceased inventor is listed on the declaration and supplemental declaration pursuant to 37 CFR 1.497(a)(3). In addition, the citizenship and residence and mailing address of the legal representative is recorded on the supplemental declaration pursuant to 37 CFR 1.497(b)(2). The declaration complies with 37 CFR 1.497(a) and (b).

05/30/2003 SNAJARRO 00000005 040500 10203045
01 FC:1254 1450.00 CH

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

A four-month extension fee of $1,450.00 is required and has been charged to Deposit Account No. 04-0500 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **10 March 2003**.

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

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

1 8 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of BERNSTEIN, Keith et al. Application No.: 10/203,050 PCT No.: PCT/US01/03663 Int. Filing Date: 05 February 2001 Priority Date: 04 February 2000 Attorney Docket No.: IAMA0001 For: A DECLARATIVE DATA-NEUTRAL CLIENT-SERVER DATA TRANSPORT MECHANISM	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed 03 October 2002. It has been treated as a Petition Under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 05 February 2001, applicants filed international application PCT/US01/03663. On 29 August 2001, a demand for international preliminary examination was filed prior to nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States is thirty months from the priority date, or 05 August 2002 (04 August 2002 was a Sunday).

On 01 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge required fees to deposit account 07-1445.

On 26 September 2002, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to pay the full basic national fee by thirty months and that as of 09 August 2002, deposit account 07-1445 had insufficient funds.

On 03 October 2002, applicants filed the instant petition.

DISCUSSION

Applicants submitted the instant petition to withdraw the holding of abandonment accompanied by the August 2002 monthly statement for deposit account 07-1445. The basic national fee for the instant application is $890. The statement reflects that at no point during August 2002 and on 09 August 2002 in particular did deposit account 07-1445 lack sufficient

funds to satisfy the basic national fee. As such, the Notification of Abandonment mailed 25 September 2002 issued in error.

Additionally, the declaration supplied with the submission for entry into the national stage in the United States does not comply with 37 CFR 1.497(a)-(b). Applicants have supplied one first page of the declaration and two second pages of the declaration. Each page 2 lists the same inventors, but the pages were separately executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration. It appears there were at least two copies of the declaration executed. Applicants must supply complete copies of each or submit a new oath or declaration in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 26 September 2002 is **VACATED**.

Applicants must supply an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

UNITED STATES 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 2004

Paper No. 13

In re Application of	:	
Hans-Rudolf Gubler *et al*	:	
Application No. 10/203,063	:	DECISION ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. 02-459	:	

This is a decision on the petition filed on July 29, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated July 18, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, which takes the form of a 37 CFR 1.114 Request for Continued Examination (RCE) that requests entry of a previously filed amendment after final rejection, together with a request for a one month extension of time, and the fees for the RCE and the extension. Petitioner has also furnished a copy of a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on November 21, 2003. The papers comprising the reply have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated November 18, 2003, a date within the period for filing a reply to Office letter in question, as extended by one month. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b). Office financial records confirm that the fee for the extension of time and for the RCE were in fact received and applied.

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 papers are entitled is November 21, 2003, with a certificate of mailing date of November 18, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Gregory P. LaPointe
Bachman & LaPointe
Suite 1210
900 Chapel St.
New Haven, CT 06510-2802

UNITED STATES 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 P. LAPOINTE
BACHMAN & LAPOINTE
SUITE 1201
900 CHAPEL STREET
NEW HAVEN, CT 06510-2802

COPY MAILED

OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Hans-Rudolf Gubler et al.	:	
Application No. 10/203,063	:	DECISION ON PETITION
Filed: August 2, 2002	:	37 CFR 1.137(b)
Attorney Docket No. 02-459	:	

This is a decision on the petition under 37 CFR §1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability mailed March 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 19, 2005. A Notice of Abandonment was mailed on August 4, 2005 to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the required reply including formal drawings at the time of filing the petition; (2) the petition fee of $1500.00 (for a large entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability/Notice of Allowance mailed March 18, 2005 is accepted as having been unintentionally delayed. The issue fee and publication fee were paid on May 31, 2005. A copy of the PTO-948 Draftsman Review Form approving the drawings submitted September 12, 2005 is attached.

This matter is being referred to the Office of Patent Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Francis Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: PTO-948 Draftsman Review Form

UNITED STATES 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

MAR 27 2009

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of

Hessling, et al.

Application No. 10/203,068

Filed: November 4, 2002

Attorney Docket No. 10191/2686

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 23, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on June 26, 2008, after it was believed that no response was received to the non-final Office action mailed February 11, 2008. 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 September 30, 2008, indicating that a reply to the non-final Office action was not received.

Petitioner states that an amendment responsive to the non-final Office action was filed on September 29, 2008, with a request for an extension of time within the third month. A review of the application file reveals that an amendment was filed on September 29, 2008, containing a certificate of mailing under 37 CFR 1.8 dated September 24, 2008, with a request for an extension of time within the third month. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being directed to Technology Center GAU 3661 for further review including review of the amendment filed September 29, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Matthias Hessling	: DECISION ON REQUEST FOR
Patent Number	: 7606657	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/203,068	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **741** 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.go

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

MAILED

MAR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Sean Ward et al.
Application No. 10/203,073
Filed: August 6, 2002
For: SYSTEM AND METHOD FOR ACOUSTIC FINGERPRINTING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on January 27, 2005

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents listed in the request have been withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Edward J. Kondracki
Miles & Stockbridge P.C.
1751 Pinnacle Drive, Suite 500
McLean, Virginia 22102-3833

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Dorobek, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/203,076	:
Filed: August 6, 2002	:
Patent No. 7,122,184	:
Issued: October 17, 2006	:

This is a decision on the "COMMUNICATION REGARDING "FINAL" PATENT TERM ADJUSTMENT", filed November 6, 2006. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred fifty-six (556) days to five hundred forty-four (544) days.

The application for patent term adjustment is **DISMISSED**.

On October 17, 2006, the application issued into Patent No. 7,122,184, with a patent term adjustment of five hundred fifty-six (556) days. The PTO determined a determined a patent term adjustment of five hundred fifty-six (556) days based on an adjustment for PTO delay of five hundred seventy-one (571) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by fifteen (15) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

Patentees point the Office's attention to their assertion that they should have been assessed additional delay of twelve (12) days for filing a second amendment after final. The Office mailed a final Office action on January 30, 2006. Applicants

mailed an amendment on April 18, 2006. However, the reply was not proper because it did not place the application in condition for allowance. Applicants filed a second amendment on May 15, 2006, made timely by obtaining a one month extension of time. This time the reply was proper, and as such applicants were assessed delay of fifteen (15) days pursuant to 37 C.F.R. § 1.704(b). Because applicants were already properly assessed delay under § 1.704(b), the Office need not accord additional applicant delay under § 1.704(c)(8).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Dorobek, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/203,076	:
Filed: August 6, 2002	:
Patent No. 7,122,184	:
Issued: October 17, 2006	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE DECISION REGARDING THE FINAL PATENT TERM ADJUSTMENT", filed March 9, 2007. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred fifty-six (556) days to five hundred forty-four (544) days.

The application for patent term adjustment is **DISMISSED**.

On October 17, 2006, the application issued into Patent No. 7,122,184, with a patent term adjustment of five hundred fifty-six (556) days. The PTO determined a determined a patent term adjustment of five hundred fifty-six (556) days based on an adjustment for PTO delay of five hundred seventy-one (571) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by fifteen (15) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

In a "COMMUNICATION REGARDING 'FINAL' PATENT TERM ADJUSTMENT" filed November 6, 2006, Patentees asserted that they should have been assessed additional delay of twelve (12) days for filing a

second amendment after final. The Office mailed a final Office action on January 30, 2006. Applicants mailed an amendment on April 18, 2006. However, the reply was not proper because it did not place the application in condition for allowance. Applicants filed a second amendment on May 15, 2006, made timely by obtaining a one month extension of time. This time the reply was proper, and as such applicants were assessed delay of fifteen (15) days pursuant to 37 C.F.R. § 1.704(b).

The Office mailed a decision on January 19, 2007, stating that because applicants were already properly assessed delay under § 1.704(b), the Office need not accord additional applicant delay under § 1.704(c)(8).

On request for reconsideration, patentees reassert their position that additional applicant delay of twelve (12) days should have been accorded. Patentees state:

> For purposes of illustration, there are literally hundreds of cases at the USPTO where the Applicants' response to the Final Rejection is not proper, ie., does not place the case in condition for allowance, and the Applicant subsequently files a Notice of Appeal. According to the reasoning upon which the Decision of January 19, 2007 in this case was based, no debit would ever accrue regardless of how late after the 3-month period an Applicant filed a response to the Final Rejection that did not place the application in condition for allowance. Patentees do not believe that this is what was intended by 37 CFR 1.704(b).

Section 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply.[1]

37 CFR 1.113(c) states that "Reply to a final rejection or action must include cancellation of, or appeal from the rejection of,

---

[1] Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).

each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form."

In this case, the April 18, 2006 amendment did not place the application in condition for allowance. As such, it did not comply with 37 CFR 1.113(c), and therefore the Office owed Applicants no response to the amendment pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(3). Accordingly, it can not be said that the filing of the amendment on May 15, 2006 required "the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply."

Applicants set forth the hypothetical where Applicants file a Notice of Appeal more than three months after the final rejection. In that scenario, applicants would be assessed delay pursuant to 37 CFR 1.704(b) on the date they filed the Notice of Appeal.

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

Nancy Johnson
Senior Petition 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

William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7599987	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/203,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1057** 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

COPY MAILED

JAN 11 2007

OFFICE OF PETITIONS

GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of	:	
Neil Keith Burford, et al.	:	
Application No. 10/203,119	:	ON PETITION
Filed: August 5, 2002	:	
Attorney Docket No. CAF-30102/03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2005, 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 February 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 26, 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 $1500.00; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to Technology Center 3600, Art Unit 3635.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

03 JUN 2003

#9

UNITED STATES PATENT and TRADEMARK OFFICE

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

Daniel J. Hudak, Jr
Hudak & Shunk Co., L.P.A.
7 West Bowery Street, Suite 808
Arkon, Ohio 44308-1133

In re Application of	:	DECISION ON
Wolfgang Ehrfeld et al	:	
Application No.: 10/203,121	:	SECOND RENEWED
PCT No.: PCT/EP01/01420	:	
Int. Filing Date: 09 February 2001	:	REQUEST UNDER
Priority Date: 11 February 2000	:	
Attorney Docket No.: FMW-AI-PCT-US	:	37 CFR 1.497(d)
For: METHOD FOR QUANTITATIVELY...	:	
AND A TITER PLATE	:	

This decision is in response to applicants' "PETITION UNDER 37 C.F.R. 1.182 FOR INVENTOR CHANGE OF NAME" filed on 30 January 2003. Applicant has been paid the petition fee of $130.00.

BACKGROUND

On 09 February 2001, applicants filed international application No. PCT/EP01/01420, which claims a priority date of 11 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 16 August 2001. A Demand electing the United States was filed in this international application on 31 August 2001 within 19 months of the priority date. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 11 August 2002.

On 05 August 2002, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application by the International application number and international filing date" must be submitted within two months from its 30 September 2002 date of mailing or by 32 months from the priority date, whichever is later. Failure to properly respond will result in abandonment."

On 21 October 2002, applicants submitted an executed declaration of the inventors. In the declaration section pertaining to the fourth named inventor, the name Antje POMMEREAU appears; this name did not appeared in the international application. In addition, the declaration has been signed by "Antje POMMEREAU."

On 31 December 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/905) because the declaration was in not compliance with 37 CFR 1.497(a) and (b) in that Inventor Antje Bornmann name change without supporting documentation.

On 30 January 2003, petitioner filed the instant petition.

DISCUSSION

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With respect to item (1), the petition fee has been provided by check.

With respect to item (2), petitioner has provided a declaration in which her signature is signed under both names- Antje Bornmann and Antje Pommereau, and setting forth the procedure whereby the change of name was effected. Therefore, item (2) has been satisfied.

CONCLUSION

For the reasons above, the petition the PETITION under 37 CFR 1.182 is **GRANTED**. The application will be granted a 35 U.S.C. 371 (c) date of **21 October 2002.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

#10

UNITED STATES PATENT and TRADEMARK OFFICE

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

01 JUL 2003

Daniel J. Hudak, Jr
Hudak & Shunk Co., L.P.A.
7 West Bowery Street, Suite 808
Arkon, Ohio 44308-1133

In re Application of
Wolfgang Ehrfeld et al
Application No.: 10/203,121
PCT No.: PCT/EP01/01420
Int. Filing Date: 09 February 2001
Priority Date: 11 February 2000
Attorney Docket No.: FMW-AI-PCT-US
For: METHOD FOR QUANTITATIVELY...
AND A TITER PLATE

Corrected Decision

This application is before the PCT Legal Office for consideration of matters under 35 U.S.C. 371.

DISCUSSION

In a decision from this Office on 03 June 2003, the petition under 37 CFR 1.182 filed on 30 January 2003 on application 10/203,121 for inventor's name change was granted. The decision indicated, inter alia, that the 35 U.S.C. 371 date of the application is 21 October 2002.

However, a review of the file shows that the 35 U.S.C. 371 date of 21 October 2002 is in error since an English translation of the drawings of the International Application as filed was not provided at that time. This decision corrects the previous decision to the extent that an English translation of the drawings is required in order to satisfy the requirements under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905(Notification of missing requirements) to inform applicant that an English translation of drawings of the International Application is missing.

R Bacares

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

30 SEP 2003

#13

UNITED STATES PATENT and TRADEMARK OFFICE

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

Daniel J. Hudak, Jr
Hudak & Shunk Co., L.P.A.
7 West Bowery Street, Suite 808
Arkon, Ohio 44308-1133

In re Application of	:	DECISION ON
Wolfgang Ehrfeld et al	:	
Application No.: 10/203,121	:	
PCT No.: PCT/EP01/01420	:	
Int. Filing Date: 09 February 2001	:	PETITION UNDER
Priority Date: 11 February 2000	:	
Attorney Docket No.: FMW-AI-PCT-US	:	
For: METHOD FOR QUANTITATIVELY...	:	
AND A TITER PLATE	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE UNDER 35 U.S.C. 371.... OFFICE (DO/EO/US) " received 14 August 2003, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the translated drawings as filed in the USPTO on 15 August 2002.

BACKGROUND

In a communication from this Office on 01 July 2003, the Office indicated that a review of the file showed that the 35 U.S.C. 371 date of 21 October 2002 was in error since an English translation of the drawings of the International Application as filed was not provided at that time.

On 14 August 2003, applicant submitted the instant petition indicating that a complete translation of the application into English, including the translation of the drawings was submitted on August 15, 2002.

DISCUSSION

A review of the file does show that the text of drawings was translated on two pages submitted on 15 August 2002 as alleged by applicants. However, this was an improper translation of the drawings under PCT Rule 49.5(d), which requires that "the translation of that text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew."

Accordingly, the date of receipt for the proper translation of the drawings is 14 August 2003, which is the date that applicants satisfied the requirement under PCT Rule 49.5(d). Therefore, the U.S.C.§ 371 date is **14 August 2003**.

DECISION

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

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal 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

DEC -1 2004

In re Application of	:	
James T. Williamson, et al.	:	
Serial No. 10/203,175	:	DECISION ON PETITION
Filed: August 6, 2002	:	TO WITHDRAW AS ATTORNEY
For: CONTAINER FORMING	:	
METHOD AND PRODUCT	:	

By papers filed on July 6, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

James T. Williamson
5887 Dogwood Drive
Urbana, OH 43078

E. Rollins-Cross, Director
Technology Center 3700

Brinks, Hofer, Gilson and Lione
One Indiana Square, Suite 2425
Indianapolis, IN 45204-2033

UNITED STATES PATENT AND TRADEMARK OFFICE

#9 DW

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

JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

Fleshener & Kim
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of
Hong-Ju Ha
Application No. 10/203,180
Filed: August 7, 2002
For: NEON SIGN DEVICE HAVING PLAIN SHAPE AND METHOD FOR MANUFACTURING THE SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on August 18, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt dated June 1, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/rwg: 12/20/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ST ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD CT 06905-5619

COPY MAILED

MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of :
Marlies Van Dullemen et al. :
Application No. 10/203,196 :
Filed: August 5, 2002 :
Attorney Docket Number: 01901-P0004A :

ON PETITION

This is a decision on the petition filed April 21, 2006 under 37 CFR 1.181, to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on October 26, 2005, after the applicant failed to timely file a proper reply to the Final Office Action mailed July 25, 2005. Accordingly, a Notice of Abandonment was mailed March 21, 2006.

Petitioner asserts that the Final Office Action was never received.

Petitioner has provided a copy of the patent file and docketing records fo this specific application, wherein receipt of the Final Office Action, mailed July 25, 2005, would have been filed, had it been received. Petitioner also documents the procedures used for handling of USPTO correspondence in an effort to show that the Notice mailed July 25, 2005 was not received.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed July 25, 2005, it is apparent that the Office Action was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Final Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

The matter is being referred to Technology Center 2841 for the remailing of the Final Office Action originally mailed on July 25, 2005. Telephone inquiries concerning the remailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201-4714

COPY MAILED

AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Forsell	:	
Application No. 10/203,211	:	DECISION ON PETITION
Filed: November 21, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2333-91	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 5, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application is the U.S. National Phase application of International Application No. PCT/SE01/00308, which was filed within twelve months of the filing date of the

prior-filed provisional application, Application No. 60/182,224, which was filed on February 14, 2000, for which priority is claimed.

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

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

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

The application is being forwarded to Technology Center AU 3763 for appropriate action on the amendment submitted April 5, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/182,224.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 02-03

Paper No. 4

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

FEB 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Faaberg et al.	:	
Application No. 10/203,224	:	ON PETITION
Filed: 7 August, 2002	:	
Attorney Docket No. 110.0125 0101	:	

This is a decision on the petition under 37 CFR 1.182, filed on 27 January, 2003, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Kay S. Faaberg
2. James E. Collins
3. Kurt D. Rossow

This application is being forwarded to Technology Center 1600 via Application Branch Data Input to change the order of inventorship.

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

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

Paper No. 9

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US UW2220
PO BOX 1539
KING OF PRUSSIA PA 19406-0939

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of Keating, et al. Application No. 10/203,226 Filed: August 7, 2002 Attorney Docket No. P51095	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2004 (Certificate of Mailing dated March 8, 2004), to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed August 29, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 30, 2003. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

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

The instant petition lacks item (1), the required reply. Petitioner has failed to submit a reply to the non-final Office action mailed August 29, 2003. A copy of the Office action is enclosed for petitioner's convenience.

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 $1480.00 extension of time fee submitted with the petition on March 11, 2004 was subsequent to the maximum period obtainable for reply (March 1, 2004), this fee has been refunded to petitioner's Deposit Account No. 19-2570.

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 decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Office action, mailed August 29, 2003 (6 pages)

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/2/04

2 Serial/Patent # 10/203,226

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	7	3/11/04	$ 1,480.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,480.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 1 9 -- 2 5 7 0

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

petitioner submitted an extension of time beyond the maximum statutory period for reply (i.e. application is already abandoned)

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 6/22/04

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)

09 DEC 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

William S. Lightbody
LIGHTBODY LAW OFFICE
32600 Fairmount Boulevard
Atrium Suite 10
Pepper Pike, OH 44124

In re Application of	:	
ADKINS, Joey	:	
Application No.: 10/203,229	:	DECISION
PCT No.: PCT/US01/04354	:	
Int. Filing Date: 08 February 2001	:	
Priority Date: 09 February 2000	:	
Attorney's Docket No.: 7594-PCT	:	
For: METHOD AND APPARATUS FOR	:	
DESTROYING NEEDLES	:	

This decision is in response to applicants' "Request to Withdraw Notice of Abandonment", which has been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) via facsimile transmission on 09 September 2004.

BACKGROUND

On 08 February 2001, applicants filed international application PCT/US01/04354, which claimed a priority date of 09 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 September, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 August 2002.

On 07 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventor.

On 01 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, inter alia, that the application was accepted for national patentability examination in the USPTO and accorded the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 07 August 2002.

On 21 November 2002, the USPTO mailed a first Office action on the merits.

On 03 October 2003, the USPTO mailed a Notice of Abandonment indicating that the application was abandoned for failure to reply to the Office letter mailed 21 November 2002.

On 26 July 2004, applicant filed a STATUS INQUIRY.

On 13 August 2004, the PCT Legal Office of the USPTO mailed a communication in response to applicant's status inquiry indicating that the application was abandoned as of 02 October 2003 for failure to respond to an Office action. A copy of the NOTICE OF ABANDONMENT mailed 03 October 2003 was included with this communication.

On 09 September 2004, applicants submitted the instant "Request to Withdraw Notice of Abandonment", which has been treated as a petition under 37 CFR 1.181.

DISCUSSION

The Transmittal Letter indicates the Customer Number as "0007643" and an address of Lightbody Law Office, 32600 Fairmount Blvd., Atrium Suite 100, Pepper Pike, Ohio 44124. The address listed under Customer Number "07643" is Lightbody Law Office, 2121 East Ohio Building, 1717 East Ninth Street, Cleveland, OH 44114 (see attachment). As noted in MPEP § 403, "[a]s the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number." Thus, the Office communications and action were sent to the address which Office procedures indicate they should have been sent. Applicant is advised to change the address associated with Customer Number 07643.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.181". Extensions of time may be obtained under 37 CFR 1.136(a).

Alternatively, applicant may wish to consider filing a petition to revive the application under 37 CFR 1.137.

Any further correspondence with respect to this matter should be addressed to the

Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enclosure: page from PALM Intranet showing the address for Customer Number 07643

25 MAR 2005

#110

UNITED STATES 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 S. Lightbody
LIGHTBODY LAW OFFICE
32600 Fairmount Boulevard, #100
Pepper Pike, OH 44124

In re Application of	:	
ADKINS, Joey	:	
Application No.: 10/203,229	:	DECISION
PCT No.: PCT/US01/04354	:	
Int. Filing Date: 08 February 2001	:	
Priority Date: 09 February 2000	:	
Attorney's Docket No.: 7594-PCT	:	
For: METHOD AND APPARATUS FOR	:	
DESTROYING NEEDLES	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.181 Request for Reconsideration" filed via facsimile transmission on 15 December 2004 and applicants' petition under 37 CFR 1.137(b) filed on 24 January 2005.

BACKGROUND

On 08 February 2001, applicants filed international application PCT/US01/04354, which claimed a priority date of 09 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 September, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 August 2002.

On 07 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventor.

On 01 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, inter alia, that the application was accepted for national patentability examination in the USPTO and accorded the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 07 August 2002.

On 21 November 2002, the USPTO mailed a first Office action on the merits.

On 03 October 2003, the USPTO mailed a Notice of Abandonment indicating that the application was abandoned for failure to reply to the Office letter mailed 21 November 2002.

On 26 July 2004, applicant filed a STATUS INQUIRY.

On 13 August 2004, the PCT Legal Office of the USPTO mailed a communication in response to applicant's status inquiry indicating that the application was abandoned as of 02 October 2003 for failure to respond to an Office action. A copy of the NOTICE OF ABANDONMENT mailed 03 October 2003 was included with this communication.

On 09 September 2004, applicant submitted a "Request to Withdraw Notice of Abandonment", which was treated as a petition under 37 CFR 1.181.

On 09 December 2004, a decision was issued dismissing applicant's petition under 37 CFR 1.181.

On 15 December 2004, applicant submitted via facsimile transmission a "Petition Under 37 CFR 1.181 Request for Reconsideration".

On 24 January 2005, applicant submitted a petition under 37 CFR 1.137(b) for revival of an application abandoned unintentionally.

DISCUSSION

Petition Under 37 CFR 1.181

The Transmittal Letter indicates the Customer Number as "0007643" and an address of Lightbody Law Office, 32600 Fairmount Blvd., Atrium Suite 100, Pepper Pike, Ohio 44124. The address listed under Customer Number "07643" is Lightbody Law Office, 2121 East Ohio Building, 1717 East Ninth Street, Cleveland, OH 44114. As noted in MPEP § 403, "[a]s the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number." Thus, the Office communications and action were sent to the address which Office procedures indicate they should have been sent. Applicant is advised to change the address associated with Customer Number 07643.

In the renewed petition under 37 CFR 1.181 applicant urges that the Power of Attorney filed 08 August 2002 revoking any prior powers and setting forth the new attorney and the new attorney's address as Lightbody Law Office, 32600 Fairmount Blvd., Atrium Suite 100, Pepper Pike, Ohio 44124 should override the Transmittal Letter. However, the Transmittal Letter and the Power of Attorney were filed on the same day. As noted above, when more than one

correspondence address is presented, any inconsistencies will be resolved in favor of the address of the Customer Number. This policy certainly holds when such inconsistencies are filed on the same day.

Petition Under 37 CFR 1.137(b)

In the submission filed 24 January 2005, applicant states that a "December 15, 2004 Request for Reconsideration is still pending, and applicant believes that it should be granted without the necessity of appeal. However, applicant files herewith this present petition [under 37 CFR 1.137(b)] to get prosecution going again." This language has been construed as requesting consideration of the petition under 37 CFR 1.137(b) if the Request for Reconsideration filed 15 December 2004 is dismissed. Since the Request for Reconsideration has been dismissed, the petition under 37 CFR 1.137(b) is now considered.

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a response to the first Office action on the merits on 24 January 2005.

As to item (2), the petition fee for a small entity of $750 has been charged to Deposit Account 12-1347. (The form submitted 24 January 2005 is outdated and contains an incorrect amount for the petition fee under 37 CFR 1.137(b). Updated forms are available at www.uspto.gov.)

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons set forth above, the renewed petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, including changing the correspondence address.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Charles Pearson
Director, Office of Petitions and
Office of PCT Legal Administration

29 AUG 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

William S. Lightbody
LIGHTBODY LAW OFFICE
32600 Fairmount Boulevard, #100
Pepper Pike, OH 44124

In re Application of	:	
ADKINS, Joey	:	
Application No.: 10/203,229	:	DECISION
PCT No.: PCT/US01/04354	:	
Int. Filing Date: 08 February 2001	:	
Priority Date: 09 February 2000	:	
Attorney's Docket No.: 7594-PCT	:	
For: METHOD AND APPARATUS FOR	:	
DESTROYING NEEDLES	:	

This decision is in response to applicants' submission filed 20 June 2005 which included, *inter alia*, a request for reconsideration of the dismissal of applicants' petition under 37 CFR 1.181.

BACKGROUND

On 08 February 2001, applicants filed international application PCT/US01/04354, which claimed a priority date of 09 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 September, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 August 2002.

On 07 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventor.

On 01 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, *inter alia*, that the application was accepted for national patentability examination in the USPTO and accorded the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 07 August 2002.

On 21 November 2002, the USPTO mailed a first Office action on the merits.

On 03 October 2003, the USPTO mailed a Notice of Abandonment indicating that the application was abandoned for failure to reply to the Office letter mailed 21 November 2002.

On 26 July 2004, applicant filed a STATUS INQUIRY.

On 13 August 2004, the PCT Legal Office of the USPTO mailed a communication in response to applicant's status inquiry indicating that the application was abandoned as of 02 October 2003 for failure to respond to an Office action. A copy of the NOTICE OF ABANDONMENT mailed 03 October 2003 was included with this communication.

On 09 September 2004, applicant submitted a "Request to Withdraw Notice of Abandonment", which was treated as a petition under 37 CFR 1.181.

On 09 December 2004, a decision was issued dismissing applicant's petition under 37 CFR 1.181.

On 15 December 2004, applicant submitted via facsimile transmission a "Petition Under 37 CFR 1.181 Request for Reconsideration".

On 24 January 2005, applicant submitted a petition under 37 CFR 1.137(b) for revival of an application abandoned unintentionally.

On 25 March 2005, a decision was mailed granting applicant's petition under 37 CFR 1.137(b) and dismissing without prejudice applicants' petition under 37 CFR 1.181.

On 20 June 2005, applicant filed the instant submission which was accompanied by, *inter alia*, a second request for reconsideration of applicant's petition under 37 CFR 1.181.

DISCUSSION

The Transmittal Letter indicates the Customer Number as "0007643" and an address of Lightbody Law Office, 32600 Fairmount Blvd., Atrium Suite 100, Pepper Pike, Ohio 44124. The address listed under Customer Number "07643" is Lightbody Law Office, 2121 East Ohio Building, 1717 East Ninth Street, Cleveland, OH 44114. As noted in MPEP § 403, "[a]s the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number." **Thus, the Office communications and action were sent to the address which Office procedures indicate they should have been sent.**

In the first request for reconsideration of applicant's petition under 37 CFR 1.181, applicant urged that the Power of Attorney filed 08 August 2002 revoking any prior powers and

setting forth the new attorney and the new attorney's address as Lightbody Law Office, 32600 Fairmount Blvd., Atrium Suite 100, Pepper Pike, Ohio 44124 should override the Transmittal Letter. However, the Transmittal Letter and the Power of Attorney were filed on the same day. As noted above, when more than one correspondence address is presented, any inconsistencies will be resolved in favor of the address of the Customer Number. This policy certainly holds when such inconsistencies are filed on the same day.

In the second request for reconsideration of applicant's petition under 37 CFR 1.181, applicant again urges that the Power of Attorney revoking any prior powers filed 08 August 2002 should have precedence over the Customer Number utilized on the Transmittal Form. Applicant urges that the Power of Attorney revoking any prior powers should take precedence because a revocation of power of attorney is effective on the date that it is received in the USPTO. It is noted that the Power of Attorney revoking any prior powers actually appoints the same attorney–William S. Lightbody–as indicated in the Transmittal Letter and the declaration of inventors, all of which were filed 08 August 2002. I.e., the Power of Attorney revokes the same attorney it appoints. The Customer Number for that attorney is "0007643". Thus, in effect, what applicant is requesting is that the Power of Attorney revoking any prior powers be construed as a request to change the address of the Customer Number for the attorney of record rather than as simply a Power of Attorney revoking any prior powers. However, a revocation of a Power of Attorney does not act to remove an attorney's Customer Number nor does it act to change the address of the Customer Number. Indeed, there are forms for changing the address of a Customer Number. See, for example, "Change of Correspondence Address, Application" (Form PTO/SB/122) for changing the correspondence in a particular application and "Correspondence Address Indication Form" (Form PTO/SB/121) for changing the correspondence address of a list of applications associated with a Customer Number. Applicant filed neither of these forms and the Power of Attorney revoking any prior powers filed 08 August 2002 will not be construed as such. Again, when more than one correspondence address is presented, any inconsistencies will be resolved in favor of the address of the Customer Number, particularly when such inconsistencies are filed on the same day. (Applicant also appears to attach significance to the fact that the address in the Revocation of Power of Attorney is underlined in the scanned copy. However, this underlining is of no moment. Again, the Office communications and action were sent to the address which Office procedures indicate they should have been sent.)

CONCLUSION

For the reasons set forth above, the renewed petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LIGHTBODY LAW OFFICE
32600 FAIRMONT BLVD.
PEPPER PIKE OH 44124

COPY MAILED

SEP 1 2 2008

OFFICE OF PETITIONS

In re Application of
Joey Adkins
Application No. 10/203,229
Filed: August 7, 2002
Attorney Docket No. 7594-PCT

ON PETITION

This is a decision in response to the petition, filed June 2, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 13, 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 October 14, 2007. A Notice of Abandonment was mailed on February 28, 2008. In response, on June 2, 2008, the present petition was filed.

The petition is not signed by an attorney or agent of record. It is noted that a Revocation and Power of Attorney (Power) accompanied the present petition; but, the power cannot be accepted, as it is signed on behalf of an assignee without the certificate required pursuant to 37 CFR 3.373(b). However, in accordance with 37 CFR 1.34(a), the signature of Carl J. Schwedler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney Schwedler desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition 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 $770; and (3) an adequate statement of unintentional delay[1].

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

response has expired. Since, no extension of time fees are due on a petition for revival, the $525 extension fees included with this petition are being refunded to counsel's deposit account.

The application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business on the reply received June 2, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CARL J. SCHWEDLER
BULLIVANT HOUSER BAILEY PC
1415 L STREET
SUITE 1000
SACRAMENTO, CA 95814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

COPY MAILED

AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Raymond Le Van Mao :
Application No. 10/203,230 :
Filed: May 7, 2003 :
Attorney Docket No. 3203.17910-PCT-US :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed January 13, 2005, under 37 CFR 1.78(a)(6) 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

Accordingly, having found that the 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 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

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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 1754 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/221,903.

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SYNGENTA CROP PROTECTION, INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

COPY MAILED

SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	
Application No. 10/203,233	:	ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. Ph/5-31322A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed November 13, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on May 14, 2004. A Notice of Abandonment was mailed July 28, 2004.

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

This matter is now being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

COPY MAILED
SEP 21 2007
OFFICE OF PETITIONS

In re Patent No. 7,201,994	:	
Application No. 10/203,237	:	
Filed: August 6, 2002	:	ON PETITION
Issued: April 10, 2007	:	
Attorney Docket No. 10059-427	:	

This is a decision on the petition filed August 22, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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 Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

td

Mailed: 2-1-06

In re application of	:	
Leung et al.	:	DECISION ON
Serial No. 10/203,245	:	PETITION
Filed: November 4, 2002	:	

For: METHOD AND PROCESS FOR CO-COMBUSTION IN A WASTE-TO-ENERGY FACILITY

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed April 19, 2005.

On February 7, 2005 the examiner made a restriction requirement under 35 USC 121 and 372 based upon a finding that the claims lack unity of invention as defined in PCT Rules 13.1 and 13.2. In a response to the requirement filed on March 3, 2005 Applicants traversed the requirement. The examiner maintained the restriction in an office action mailed on April 19, 2005 and made the requirement final.

The instant petition was timely filed on July 1, 2005 requesting that the requirement for restriction be withdrawn. Petitioner argues that the claims have unity of invention in that all of the claims include a sufficient special technical feature in common.

DECISION

The instant application has been filed under 35 USC. 371 as a national phase application of PCT/GB01/00420 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. MPEP 1893.03(d) permits groupings of claims which are linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding technical feature. In the office action mailed February 7, 2005, the examiner took the position that a lack of unity exists between the two groups because each of the groups have different special technical features and more specifically, that Group I contains features that are not required by Group II.

In the instant petition it is asserted that there is unity of invention among all of the groups since each group shares a common technical feature (i.e. the integration of cement production with waste combustion (the coupling of heat generation in one process to heat utilization in the other process)).

This argument is persuasive. It is clear that both groups of claims contain the aforementioned special technical feature. This meets the requirements as set forth above with respect to unity of invention. The fact that one group of claims contains other features not required by the other group, is not determinative of whether unity of invention exists.

Accordingly, because the holding of lack of unity was improper, the instant petition is **GRANTED.** It is noted that a response has been filed in the instant application. The application is being forwarded to the examiner to prepare an office action response to this amendment. Additionally, the restriction requirement should be withdrawn and all previously withdrawn claims treated on their merits.

JMStone

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

Townsend and Townsend and Crew
Two Embarcadero Center 8th Floor
San Francisco CA 94111

UNITED STATES 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

JUL 13 2007

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO CA 94111

In re Patent No. 7,189,074 :
Issue Date: March 13, 2007 :
Application No. 10/203,245 : ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. 0846378-000000US :

This is a decision on the petition filed February 16, 2007, under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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

24 APR 2003

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of MOLLER et al. Application No.: 10/203,272 PCT No.: PCT/DK00/00066 Int. Filing Date: 18 February 2000 Priority Date: None Attorney Docket No.: Q71164 For: A METHOD AND APPARATUS FOR PROCESSING A PULVERULENT OR PARTICULATE MATERIAL	: : : : : : :	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 29 January 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 February 2000, applicants filed international application PCT/DK00/00066 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 18 August 2002.

On 08 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 29 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by Jens Thousig Moller as inventor and on behalf of deceased inventor, Uffe Christiansen.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (M.P.E.P.) states, in part:

> One who has reason to believe that he or she will be appointed legal representative of a deceased inventor may apply for a patent as legal representative in accordance with 37 CFR 1.42. Proof of the applicant's authority as legal representative may be filed after the filing date of the application . . .
>
> Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and if accompanied by a certificate from the court that they are all the heirs and that the estate was under the sum required by state law for the appointment of an administrator.

The declaration submitted on 29 January 2003 is defective in that it has been executed by joint inventor Jens Thousig Moller on behalf of the deceased inventor rather than by the legal representative (executor, administrator, etc.), or by all of the heirs of the deceased inventor, on behalf of the deceased inventor. Absent a declaration of the inventors executed by the legal representative (executor, administrator, etc.) or by all of the heirs, on behalf of deceased inventor Uffe Christiansen, it is inappropriate to accord the present application status under 37 CFR 1.42.

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the residence, citizenship, and post office address of the deceased inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the signing heir.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

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

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of MOLLER et al. Application No.: 10/203,272 PCT No.: PCT/DK00/00066 Int. Filing Date: 18 February 2000 Priority Date: None Attorney Docket No.: Q71164 For: A METHOD AND APPARATUS FOR PROCESSING A PULVERULENT OR PARTICULATE MATERIAL	: : : : : : :	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 24 June 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 February 2000, applicants filed international application PCT/DK00/00066 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 18 August 2002.

On 08 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 29 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by Jens Thousig Moller as inventor and on behalf of deceased inventor, Uffe Christiansen. In a decision dated 24 April 2004, applicants' request was dismissed because the declaration was defective pursuant to 37 CFR 497(b).

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 24 June 2003 is executed by: Jens Thousig Moller as inventor; and Carmen Estrem as the "legal representative" of the deceased inventor, Uffe Christiansen. The declaration submitted on 24 June 2003 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration is defective. Specifically, page 2 of the declaration is illegible.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

Anthony Smith

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

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30 JUL 2003

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of	:	
MOLLER et al.	:	
Application No.: 10/203,272	:	DECISION ON
PCT No.: PCT/DK00/00066	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 18 February 2000	:	
Priority Date: None	:	
Attorney Docket No.: Q71164	:	
For: A METHOD AND APPARATUS FOR PROCESSING A PULVERULENT OR PARTICULATE MATERIAL		

This is a response to the declaration filed 23 July 2003 which is being treated as a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 February 2000, applicants filed international application PCT/DK00/00066 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 18 August 2002.

On 08 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 29 January 2003, applicants filed an executed declaration/power of attorney. The declaration was executed by Jens Thousig Moller as inventor and on behalf of deceased inventor, Uffe Christiansen. In a decision dated 24 April 2004, applicants' request was dismissed because the declaration was defective pursuant to 37 CFR 497(b).

On 24 June 2003, applicants filed an executed declaration/power of attorney. The declaration was executed by Jens Thousig Moller as inventor; and Carmen Estrem as the

"legal representative" of the deceased inventor, Uffe Christiansen. In a decision dated 15 July 2003, applicants' request was dismissed because the declaration was illegible.

On 23 July 2003, applicants filed the present renewed petition.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead,* states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 23 July 2003 is executed by: Jens Thousig Moller as inventor; and Carmen Estrem as the "legal representative" of the deceased inventor, Uffe Christiansen. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 23 July 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 18 February 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **23 July 2003**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/23/2010

Applicant	: Christina Ragnarson	: DECISION ON REQUEST FOR
Patent Number	: 7598427	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/203,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1546** 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.

DATE 10/4/07

APPLICATION NUMBER 10/203290

DOC CODE PetDec

DOC DATE 10/19/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

OCT 19 2007

OFFICE OF PETITIONS

In re Application of
Thomas Burgard, et al.
Application No. 10/203,290
Filed: December 2, 2002
Attorney Docket No. 449122040000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 18, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 8, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB - 9 2005

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, NW
WASHIINGTON, DC 20036

In re Application of	:
Wolfgang Ahlers et al	:
Serial No.: 10/203,296	: PETITION DECISION
Filed: August 8, 2002	:
Attorney Docket No.: 51163	:

This is in response to the petition under 37 CFR 1.144, filed February 12, 2004, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on August 8, 2002, and contained claims 1-16. In a first Office action, mailed July 1, 2003, the examiner set forth a Lack of Unity requirement in accordance with PCT Rule 13.1 and 13.2 and 37 CFR 1.499, which set forth a total of 186 groups (not repeated here) based on the variables A^1 (mis-identified as A), A^2, X, Y^1 and Y^2. The requirement also required an election of species depending on which group was elected. The examiner declined to group the methods of making with the compounds claimed or products made. It was also noted that claim 16 was not included as it was a non-statutory claim. (Although not noted, claims 4-15 were also improperly multiply dependent.)

Applicants replied on August 7, 2003, by canceling claims 13, 15 and 16, amending claims 1, 9, 12 and 14 (and correcting improper dependencies in all other claims) and adding claims 17-21. Applicants summarize the Lack of Unity requirement bases, elect a specific compound and vigorously traverse the requirement as not being in accordance with PCT Treaty regulations and provide examples of similar patents wherein no Lack of Unity requirement was made.

The examiner mailed an Office action to applicants on September 3, 2003, indicating that the election made by applicants was incomplete and giving applicants a one month time period to complete the election.

Applicants replied on September 9, 2003, completing and clarifying the election and incorporating the comments of the previous response.

The examiner mailed a new Office action to applicants on October 15, 2003, maintaining the Lack of Unity requirement and making it Final and responding to the traversal thereof. The examiner also rejected claims 1-5 and 7 under 35 U.S.C. 112, second paragraph, as indefinite. The examiner appears to indicate that newly added claim 17 should also be included with this rejection and would rejoin claim 8 upon the formality rejection being overcome. The elected group was determined to be free of the prior art.

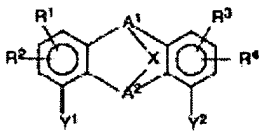
On February 12, 2004, applicants filed this petition requesting review of the examiner's Lack of Unity holding. Applicants also replied to the Office action including a one month extension of time request and fee and amendments to all of the pending claims.

Subsequently the examiner mailed a Final Office action to applicants on April 22, 2004, maintaining the Lack of Unity requirement and the rejection under 35 U.S.C. 112, second paragraph.

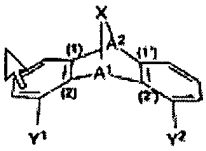
Applicants filed an amendment after Final rejection on September 20, 2004, concurrently with a Notice of Appeal. An Advisory Action was mailed by a new examiner to applicants on December 21, 2004. Applicants' Appeal Brief was filed January 13, 2005.

DISCUSSION

Applicants claims are directed to compounds having the following structure (shown in planar and spatial orientation form):



or



A^1 and A^2 can be B, N, P or CR^5;
X is O, S, NR^a or a divalent bridging group;
Y^1 and Y^2 are radicals containing P, Sn or Sb;
R^1 thru R^4 are standard substituent radicals.

Applicants claims, as originally filed, are directed to compounds (claims 1-7), a process for preparing the compounds (claim 8), a catalyst comprising a transition metal and a ligand compound of claims 1-7 (claims 9-11), a hydroformylation or hydrocyanation or carbonylation process using the catalyst (claims 12-15), and claim 16 drawn to a use of a catalyst. Following amendment the claims remaining are drawn to compounds (claims 1-7, 17-18), a process for making the compound (claim 8), a catalyst (claims 9-11, 19-21), and a hydroformylation process (claims 12, 14). The compounds and catalyst are related as subcombination/combination with the process of making the compound being related to the subcombination and the process of using the catalyst being related to the combination. In essence a single inventive concept is presented under Unity guidelines.

A review of the above structure for determination of a significant structural element which can be categorized as the special technical feature shows that there are two benzene rings connected

together by a bridged ring structure. Each of the rings has a specific phosphorous (or other metal containing group dependent therefrom. The sole purpose of these dependent groups is to provide ligand points of attachment for the transition metal with which it forms a catalyst and are significant only in that they are there, not what they specifically must be. The bridged ring structure has three variables, A^1, A^2 (which can be the same or different) and X, all of which are defined above. As explained by applicants in the specification and arguments, the purpose of the bridging ring structure is to maintain the benzene rings in a particular spatial orientation so as to enable a transition metal to attach thereto via the depending ligands and form a catalyst. Yet, the fact that the bridge ring has three variables would indicate that there is no Unity of Invention among the compounds here. However, dividing the structure into 120 or more different compounds, each Lacking Unity with the others is considered unreasonable.

A more reasoned approach is to note that the bridge, as represented by X is the critical element which forces the spatial orientation shown and enables catalyst formation with the ligand structures. X is noted to have many values and a potential Lack of Unity may be based thereon. Special consideration may also need to be made when A is not C or N as other values may not as readily provide a tetrahedral orientation as required.

DECISION

The petition is **GRANTED**. **The Lack of Unity requirement as originally set forth is vacated.**

The application will be forwarded to the examiner for further action not inconsistent with this decision, but which may include a new Lack of Unity requirement, if appropriate.

The prosecution subsequent to the filing of the petition is vacated with this decision and the application restored to the status at the time the petition was filed (reply to non-Final Office action received). Applicants may request refund of the Notice of Appeal and Appel Brief Fees, if desired.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/203,304	08/06/2002	Arnon Netzer	180/2817	3754

44909 7590 01/28/2008
PRTSI
P.O. Box 16446
Arlington, VA 22215

EXAMINER
NGUYEN, THANH T

ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
01/28/2008	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

MAILED

JAN 25 2008

Technology Center 2100

PRTSI
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of:
Arnon NETZER, et al.
Application No. 10/203,304
Filed: August 6, 2002
For: **SCHEDULING IN A REMOTE-ACCESS SERVER**

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO CONSIDER

This is a decision on the petition filed Jan 24, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to withdraw the Finality of office action mailed Oct 20, 2006.

The petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

Oct 20, 2006	A Final Office action mailed in response to the Amendment filed Aug 03, 2003.
Jan 24, 2007	Applicant filed 1) an Amendment in response to the Final Office action and 2) a formal Petition to seek relief from actions of examiner Tammy Nguyen and SPE William Vaughn in relation to the Final Office. In the petition, applicant's counsel alleged that Final Office action was premature and should be retracted.
Feb 21, 2007	An Advisory Action mailed addressing applicant's arguments filed Jan 24, 2007 and indicating that the After Final Amendment failed to place the application in condition for allowance.
Oct 4, 2007	A Notice of Abandonment mailed for failure to file a proper reply to the Final Office action.

DECISION

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition ...

A review of the prosecution history in the instant application and the petition indicates that there is a disagreement between the examiner and applicant's counsel as to whether the prior art teaches all claimed limitation(s) as recited in claims 44, 48, 50 and 52. All claims have been rejected under 35 U.S.C. §§ 102(e). Thus, it is apparent that such a disagreement regarding claim interpretation and rejection is appealable, not a petitionable matter.

A proper reply to a final rejection under 37 CFR 1.113 **must** include one of the following replies: (1) a timely amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal; or (3) a timely Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Unfortunately, none of the above mentioned conditions are presented in this case.

The failure to file a proper and timely response to the Final action mailed Oct 20, 2006 in accordance with in 37 CFR 1.113(a) resulted in the abandonment of the application on Oct 4, 2007.

Pursuant to MPEP § 1201, the petition is **DISMISSED.**

A delay to render a decision on this petition is hereby regretted.

If the petitioner desires further review of this decision, he should file a petition to review a decision of Technology Center Director under 37 CFR § 1.181 within two (2) months of the mailing date of this decision. Otherwise, the petitioner may wish to consider filing a petition to revive under 37 CFR § 1.137.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

Jeffrey Gaffin, Acting Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUDAK, SHUNK & FARINE, CO., L.P.A.
2020 FRONT STREET
SUITE 307
CUYAHOGA FALLS OH 44221

COPY MAILED

MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Jobberns & McCasker	:	ON PETITION
Application No.: 10/203,312	:	
Filed: August 6, 2002	:	
Attorney Docket No.: FISHER-R-PCT-US	:	
For: WELL CLEANING SYSTEM		

This is a decision on the petition under 37 CFR 1.47(a), filed January 19, 2006.

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 August 6, 2002 without a completely executed declaration. On December 27, 2005, the Office mailed a Notice to File Corrected Application Papers, requiring applicants to submit a fully executed oath/declaration within 30 days of the mail date of the Notice.

In response, a declaration signed by one of two joint inventors, the instant petition and authorization to charge the petition fee were filed on January 19, 2006. Co-inventor David A. Jobberns explains in a statement of facts that the law firm of Fisher Adams Kelly mailed a declaration and assignment to the non-signing inventor, Douglas B. McCasker, and that Mr. McCasker refused to sign the declaration during a conversation with Grant Adams of Fisher Adams Kelly on October 10, 2002.

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 petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The August 2, 2002 letter from the law firm of Fisher Adams Kelly does not reference an enclosed application. It appears that Mr. McCasker was not mailed a copy of the application.

As petitioner is aware, circumstances change and individuals, when faced with opportunities, sometimes waiver from their stated intentions. Mr. McCasker must have the complete application in his possession in order to make an informed decision as to whether he will join in its filing. When petitioner can show that Mr. McCasker was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Regarding McCasker's alleged refusal to sign the declaration, *assuming that petitioner can show that McCasker received the application papers*:

As stated in MPEP 409.03(d), " Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted."

Mr. McCasker supposedly informed Mr. Adams, not Mr. Jobberns, that he would not sign the declaration. The Office would like Mr. Adams, to provide a statement regarding Mr. McCasker's oral refusal to sign the declaration. The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted.

Regarding fees, deposit account no. 08-3150 will be charged the required Rule 47 petition fee of $200.00.

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

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

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

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

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

E. Shirene Willis
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

HUDAK, SHUNK & FARINE, CO., L.P.A.
2020 FRONT STREET
SUITE 307
CUYAHOGA FALLS OH 44221

COPY MAILED

JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Jobberns & McCasker : ON PETITION
Application No.: 10/203,312 :
Filed: August 6, 2002 :
Attorney Docket No.: FISHER-R-PCT-US :
For: WELL CLEANING SYSTEM

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 8, 2006 (certificate of mailing date May 3, 2006).

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Douglas B. McCasker, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration by Attorney James Grant Adams explains that Mr. McCasker was mailed a copy of the application, assignment and declaration on August 2, 2002. Mr. McCasker refused to sign the declaration during a telephone call with Attorney Adams that took place on October 10, 2002. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

Telephone inquiries regarding this decision 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

DOUGLAS B. MCCASKER
42 NORMANDY CRESCENT
AROONA, QUEENSLAND 4551
AUSTRALIA

COPY MAILED

JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jobberns & McCasker	:	LETTER
Application No.: 10/203,312	:	
Filed: August 6, 2002	:	
Attorney Docket No.: FISHER-R-PCT-US	:	
For: WELL CLEANING SYSTEM		

Dear Mr. McCasker:

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HUDAK, SHUNK & FARINE, CO., L.P.A.
2020 FRONT STREET
SUITE 307
CUYAHOGA FALLS OH 44221

28 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
Goldman	:	
Application No.: 10/203,316	:	
PCT No.: PCT/IL01/00133	:	
Int. Filing Date: 09 February 2001	:	DECISION
Priority Date: 10 February 2000	:	
Attorney Docket No.: 2786-0219P	:	
For: Data Receiving Device For Use In An	:	
Impulse-Based Data Transmission System	:	

This is in response to applicant's 'Letter" filed on 08 October 2002, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed on 09 February 2001 and claimed an earlier priority date of 10 February 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 16 August 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the 30 month period for payment of the basic national fee in the United States expired as of midnight on 10 August 2002. On 09 August 2002, applicant filed *inter alia* the basic national fee and a surcharge under 37 CFR 1.492(e), but did not file an executed oath or declaration of the inventor.

On 13 September 2002, applicant filed an executed declaration.

On 20 September 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration.

Applicant filed the instant petition on 08 October 2002.

DISCUSSION

The petition is accompanied by a copy of a return postcard receipt which is stamped as received by "OIPE" on "SEP 13 2002" and which itemizes a "Completion of Filing Requirements, and Executed Declaration." The petition is accompanied by a copy of an executed declaration, and states that said copy is "a copy of the Declaration and Power of Attorney, filed September 13, 2002." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by

the PTO." Accordingly, the copy of the declaration filed with the petition on 08 October 2002 is accepted as copies of the papers as filed on filed on 13 September 2002. As the executed declaration was filed before the mailing of the Notification of Missing Requirements on 20 September 2002, the mailing of that Notification was inappropriate and it is hereby **VACATED**.

Review of the declaration as filed on 13 September 2002 reveals that it is directed toward international application number PCT/IL***00***/00133, while the instant application is the national stage of international application number PCT/IL***01***/00133. Accordingly, the declaration fails to comply with 37 CFR 1.497(a)(2).

DECISION

The petition is **GRANTED** as discussed above.

Petitioner is required to file an executed oath or declaration directed toward of international application number PCT/IL01/00133 within a **TWO (2) MONTH** time period from the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely comply will result in **ABANDONMENT** of this international application with respect to the United States.

This application is being retained in the PCT Legal Office to await applicants' reply to the above requirement for a proper declaration.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 2023
www.uspto.go

MEMORANDUM

To: National Stage Processing Branch

From: George Dombroske
Leonard Smith
PCT Legal Examiners
PCT Legal Office

Re: Declaration in 10/203,316

The declaration filed in this application on 23 May 2003 is acceptable. Therefore, please continue processing of this application. The date of the application under 35 U.S.C. 371 (c) (1), (2) and (4) is **23 May 2003**.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

OCT 2 7 2005

OFFICE OF PETITIONS

In re Patent No. 6,830,132 :
Issued: December 14, 2004 :
Application No. 10/203,317 : ON PETITION
Filed: August 9, 2002 :
Attorney Docket Number: 033563-005 :

This is a decision on the petition, filed October 4, 2005, under CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct name of the second assignee is Leesung Construction Machinery Co., Ltd., and that an incorrect name was inadvertently included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for certificate of correction (and fee) as required by 3.81(b) was filed July 12, 2005 and dismissed in a decision dated August 1, 2005 since the request was not

---

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

accompanied by a petition under 37 CFR 3.81. Office assignment records however, reflect that Leesung Construction Machinery Co., Ltd. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Pursuant to 37 CFR 1.17(i) the fee for a petition under 37 CFR 3.81 has been applied. A certificate of correction fee in the amount of $100.00 has also been debited from deposit account no. 02-4800.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

29 JUL 2003

#7

UNITED STATES PATENT and TRADEMARK OFFICE

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

Scott R. Cox
LYNCH, COX, GILMAN
& MAHAN, P.S.C.
400 West Market Street, Suite 2200
Louisville, Kentucky 40202

In re Application of	DECISION ON
Petrolli et al	
Application No.: 10/203,331	
PCT No.: PCT/EP01/01365	PETITION UNDER
Int. Filing Date: 08 February 2001	
Priority Date: 10 February 2000	37 CFR 1.181
Attorney's Docket No.: P-1149	
For: CATALYST FOR HYDROGENATION OF UNSATURATED HYDROCARBONS	

This Decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATNET ABANDONED UNAVOIDABLY UNDER 37 C.F.R. 1.137(a)," filed on 28 April 2003, which is being treated as a petition under 37 CFR 1.181 requesting the acceptance of the executed declaration form as timely filed since the Notification of Missing Requirements was not received. Since no petition fee is required for this petition, the $110.00 is being refunded to applicant Deposit Account 03-3420.

BACKGROUND

On 08 February 2001, applicants filed international application PCT/EP01/01365, which claimed priority of an earlier application filed 10 February 2000. A copy of the intentional application was transmitted on 16 August 2001 to the USPTO from the International Bureau. A DEMAND was timely filed on 17 August 2001 electing the United States. Accordingly, the thirty month (30) time period for paying the basic national fee in the United States of America expired at midnight on 10 August 2002.

On 08 August 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No oath or declaration of the inventors accompanied the transmittal letter.

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two(months) from its 30 September 2002

date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 28 April 2003, applicants filed the instant petition accompanied, *inter alia*, with an executed declaration.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

A review of the petition reveals that petitioner has not complied with the requirements set forth in section 711.03(c), which requires a statement that a search of the file jacket and docket records indicates that the Office communication was not received, and a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed for reply. Mr. Cox's statements on page 2, paragraphs 7-10 of his affidavit and Ms. Goodlett's statements on page 2, paragraphs 5-7 are insufficient to establish failure to

receive the Office communication without any corroborating evidence , e.g., a log showing the mailed received during the time period the office communication would have been received and the computer tickler sheet for 30 November 2002. In other words, to establish a showing nonreceipt of the Notification of Missing Requirements would require, at a copy of the computer tickler sheet showing all replies docketed for a date of two month from the mail date of the nonreceived Office action.

Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the application remains abandoned for failure to timely respond to the Notification of Missing Requirements (DO/EO/US) mailed on 30 September 2002.

RECOMMENDATION

As an alternative, applicants may request revival of the application via petition under 37 CFR 1.137(b).

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. Note MPEP 711.03(c)

This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Applicant is required to provide the proper reply stated above within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181(a)." Extensions of time under 37 CFR 1.136(a) are available.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

17 SEP 2003

#9

UNITED STATES PATENT and TRADEMARK OFFICE

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

Scott R. Cox
LYNCH, COX, GILMAN
& MAHAN, P.S.C.
400 West Market Street, Suite 2200
Louisville, Kentucky 40202

In re Application of	:	DECISION ON RENEWED
Petrolli et al	:	
Application No.: 10/203,331	:	
PCT No.: PCT/EP01/01365	:	PETITION UNDER
Int. Filing Date: 08 February 2001	:	
Priority Date: 10 February 2000	:	37 CFR 1.181
Attorney's Docket No.: P-1149	:	
For: CATALYST FOR HYDROGENATION OF	:	
UNSATURATED HYDROCARBONS	:	

This decision is responsive to applicants' "Renewed Petition Under 37 CFR 1.181(a)" filed on 22 August 2003 requesting the acceptance of the executed declaration form as timely filed since the Notification of Missing Requirements was not received.

BACKGROUND

In a decision from this Office on 29 July 2003, the petition filed on 28 April 2003 was dismissed. The decision indicated that petitioner had not complied with the requirements set forth in section 711.03(c) because neither a copy of the docket showing the replies docketed for a date of two months from the mail date of the non-received Office.

On 22 August 2003 petitioner submitted a second renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the second renewed petition reveals that petitioner has now complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has submitted a copy of the applicants' counsel secretary calendar for the months of November and December 2002, where she would had hand-written on her calendar the due dates of all time sensitive information, such as the due date for a Response to a Notification of Missing Requirements and petitioner also attached his hand-written tickler system on which would have been entered a reference to the due date of a response to this

Notification of Missing Requirements document if one had been received and neither one has a reference to any "missing" document that was due on December 2, 2002 for the above application. Petitioner asserts that there is no record of receiving the Notification of Missing Requirements.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

However, the declarations filed on 28 April 2003 is defective since they do not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, petitioner submitted a composite declaration comprising of three sets of declarations, which two are incomplete since each set must be complete by having the correct number of pages. It appears that petitioner just added pages from two declarations (i.e., pages 3 of 4, and 4 of 4) to make one incomplete composite declaration. In addition, the declarations have been improperly altered since they the page numbers have been crossed-out and new pages numbers have been written on them. See 37 CFR 52(c)(1).

DECISION

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

A proper response to this decision is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Examiner
Work (703) 308-6312
Fax (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

11 FEB 2004

#11

UNITED STATES PATENT and TRADEMARK OFFICE

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

Scott R. Cox
LYNCH, COX, GILMAN
& MAHAN, P.S.C.
400 West Market Street, Suite 2200
Louisville, Kentucky 40202

In re Application of	:	
Petrolli et al	:	
Application No.: 10/203,331	:	
PCT No.: PCT/EP01/01365	:	
Int. Filing Date: 08 February 2001	:	DECISION
Priority Date: 10 February 2000	:	
Attorney's Docket No.: P-1149	:	
For: CATALYST FOR HYDROGENATION OF	:	
UNSATURATED HYDROCARBONS	:	

This decision is responsive to applicants' "COMPLETION OF FILING REQUIREMENTS... UNDER 35 USC 371" filed on 11 November 2003 requesting the acceptance of the executed declaration.

BACKGROUND

In a decision from this Office on 17 September 2003, the petition filed on 22 August 2003 was granted but the decision indicated that petitioner had not complied under 37 CFR 1.497(a)(3) since a declaration must identify each inventor, and that the declarations had been improperly altered.

On 11 November 2003 petitioner submitted a new executed declaration.

DISCUSSION

A review of the declaration submitted on 11 November 2003 reveals that it complies with 37 CFR 1.497 and as such the application now satisfies the requirements for entry into the U.S. National Stage under 35 U.S.C.§371.

DECISION

The executed application is accepted as being proper and the application satisfies the requirements for entry into the U.S. National Stage under _35 U.S.C.§371

The application has a date under 35 U.S.C.§ 371(c)(1), (c)(2) and (c)(4) of **11 November 2003**.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Affairs
Work (703) 308-6312
Fax (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

DEC 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,294,592	:	
Issue Date: November 13, 2007	:	
Application No. 10/203,339	:	ON PETITION
Filed: August 7, 2002	:	
Attorney Docket No. NI-012RCE2	:	

This is a decision on the petition filed September 10, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner submitted a petition fee of $400 on September 10, 2008. However, the petition fee is $130.00. A total of $100.00 will be applied to the required Certificate of Correction fee and the remaining balance of $170.00 will be credited to petitioner's deposit account as authorized.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

20 JUN 2[illegible]3

#5

UNITED STATES PATENT and TRADEMARK OFFICE

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

Donald J MacDonald
McCormick Paulding & Huber
CityPlace II 185 Asylum Street
Hartford CT 06103-3402

In re Application of	DECISION ON
HENSON et al	
PCT No.: PCT/US01/03941	PETITION UNDER
Application No.: 10/203,341	
Int. Filing Date: 07 February 2001	
Priority Date: 08 February 2000	37 CFR 1.47(a)
Attorney's Docket No.: 1961-181WOUS	
For: APPARATUS FOR ELECTRICALLY ...	
OF OPERATING IT	

This is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS AND PETITION UNDER CFR 1.47(b)" filed on 11 December 2002, which is being treated as a petition under 37 CFR 1.47(a). The $130.00 petition fee has been paid by check.

BACKGROUND

On 07 February 2001, applicants filed international application PCT/US01/03491, which claimed priority of an earlier U.S. application filed 08 February 2000. A DEMAND was filed on 06 August 2001 prior to the expiration of 19 months from the priority date electing the United States. Accordingly, the thirty (30) month time period for paying the basic national fee in the United States of America expired at midnight on 08 August 2002.

On 07 August 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter. A copy of the intentional application was transmitted on 16 August 2001 to the USPTO from the International Bureau.

On 07 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 07 October 2002 date of

mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 11 December 2002, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of two of the four inventors, i.e., without the signatures of Michael Edmond Wilson and Richard J. Davis.

DISCUSSION

Petitioner's petition under 37 CFR 1.47(b) is improper because this petition is for the circumstance when all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort. In this situation two of the four inventors signed the declaration. Accordingly, the petition has been treated under 37 CFR 1.47(a).

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § **1.17(h)**, and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § **1.63**.

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or

declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 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 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), and (3) of 37 CFR 1.47(a). However, requirements (2) and (4) have not been satisfied.

Regarding item (2) it is unclear if the mailed documents were actually received by the non-signing inventor, Richard J. Davis, the signature section of the Certified Mail Receipt is signed by "Barbara Treadway," not Richard J. Davis. Accordingly, it is unclear if he actually received the documents or even if Mr. Davis still resides at 2232 Etta Lane.

Consequently, the current record does not support the premise that Richard J. Davis conduct constitutes refusal because no evidentiary documents have been submitted to show that the complete application was deliver to them and that they refused to sign the required papers.

Regarding item (4), Diana Rodriguez and Jim Henson have not signed the declaration on behalf of the non-signing inventors, Michael Edmond Wilson and Richard J. Davis. See MPEP 409.03. Rather, the declaration has been signed by the assignee's representative on behalf of the nonsigning inventors. A new oath or declaration is required wherein Diana Rodriguez and Jim Henson state that they sign the declaration on behalf of the non-signing inventors, Michael Edmond Wilson and Richard J. Davis. SEE MPEP 602.

Consequently, the petition has not met the requirements under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

09 SEP 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald J. McDonald
McCormick, Paulding & Huber LLP
CityPlaceII, 185 Asylum Street
Hartford, CT 06103-3402

In re Application of	:
Henson et al.	:
Application No.: 10/203,241	: DECISION ON
PCT No.: PCT/US01/03941	:
Int. Filing Date: 07 February 2001	: RENEWED PETITION
Priority Date: 08 February 2000	:
Attorney's Docket No.: 9161-181WOUS	: UNDER 37 CFR 1.47(a)
For: APPARATUS FOR ELECTRICALLY	:
CONTROLLING DEVICES, AND A METHOD OF	:
OPERATING IT	:

This is a decision in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 28 July 2003, to accept the application without the signature of co-inventor Micheal Edmond Wilson. The required $130 petition fee was included with the original petition.

BACKGROUND

On 07 February 2001, applicants filed international application PCT/US01/03941 that claimed priority of an earlier United States application filed 08 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 August 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 08 August 2002.

On 07 August 2002, applicants filed a letter for entry into the national stage in the United States which was accompanied by an information disclosure statement and the basic national fee of $100 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/203,341.

On 07 October 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating

that applicants were required to file an oath/declaration. The notification set a two-month time period in which to respond.

On 11 December 2002, applicants filed a petition under 37 CFR 1.47(b) accompanied by a declaration signed by two of the four inventors.

On 20 June 2003, the USPTO mailed applicants a decision indicating that: (1) the petition was being treated as a petition under 37 CFR 1.47(a); (2) the applicants had failed to supply sufficient evidence to show that a diligent effort had been made to reach the non-signing inventors; and (3) the applicants had not provided a declaration signed on behalf of the non-signing inventors.

On 28 July 2003, applicants filed the current renewed petition and a new declaration signed by inventors Rodriguez, Henson and Davis.

DISCUSSION

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

With respect to item (1), applicant submitted the proper petition fee of $130 with the earlier filed petition.

With respect to item (2), applicant submitted copies of letters sent to Michael Edmond Wilson indicating that the application was forwarded for his signature. Further, applicants have provided a signed certified mail receipt, signed by Michael Edmond Wilson, for the documents sent to Mr. Wilson.

With respect to item (3), applicant provided the last known address for Mr. Michael Edmond Wilson with the earlier filed petition.

With respect to item (4), applicant has provided a proper declaration signed by inventors Rodriguez, Henson and Davis on their behalf as well as on behalf of the non-signing inventor Michael Edmond Wilson.

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 07 February 2001 under 35 U.S.C. 363, and a date of 28 July 2003 under 35 U.S.C. 371.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

09 SEP 2003

#7

UNITED STATES 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 Edmond Wilson
12306 Cedar Spur Road
Travis County
Austin, TX 78758

In re Application of: Henson, et al.
Application No.: 10/203,341
PCT No.: PCT/US01/03941
Int. Filing Date: 07 February 2001
Attorney's Docket No.: 1961-181WOUS
For: APPARATUS FOR ELECTRICALLY CONTROLLING DEVICES AND A METHOD OF OPERATING IT

Dear Mr. Michael Edmond Wilson:

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

Debra S. Brittingham
PCT Legal Examiner
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

Counsel of Record: Donald J. MacDonald
McCormick Paulding & Huber
CityPlaceII 185 Asylum Street
Hartford, CT 06103-3402

UNITED STATES PATENT and TRADEMARK OFFICE

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

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. Michael Edmond Wilson) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.63. The international application number is PCT/US01/03941 and was filed on 07 February 2001 in the names of Jim Henson, Richard J. Davis, Michael Edmond Wilson and Diana Rodriguez for the invention entitled APPARATUS FOR ELECTRICALLY CONTROLLING DEVICES, AND A METHOD OF OPERATING IT. The national stage application number is 10/203,341 and has a 35 U.S.C. 371 date of 28 July 2003.

2 7 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John F. Letchford
Klehr, Harrison, Harvey, Branzburg & Ellers LLP
260 South Broad Street
Philadelphia, PA 19102

In re Application of SHAW, Wayne E. et al. Application No.: 10/203,350 PCT No.: PCT/US01/03234 Int. Filing Date: 01 February 2001 Priority Date: 04 February 2000 Docket No.: For: SEMIPERMEABLE COATING OF BUILDING MATERIALS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 07 August 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 08 2005
Director's Office
Group 3700

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

Paper No. 10

In re Application of
DRASKOVITS ET AL.
Appl No.: 10/203,357
Filed: October 15, 2002
For: CONTROL DEVICE FOR POSITIVE DISPLACEMENT PUMPS
Attorney Docket Number: 11839/19

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed March 15, 2004 to review the holding of abandonment, mailed February 18, 2004 for failure to timely file corrected drawings due December 26, 2003. The petition is considered pursuant to 37 CFR 1.181. No fee is required for the petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response (including corrected drawings) and a copy of a PTO stamped post card receipt dated December 22, 2003.

In view of the above, the Notice of Abandonment mailed February 18, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status. The application will then be forwarded to the Office of Publications as there are no outstanding requirements.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 092004

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE, SUITE 170
SUNNYVALE, CA 94085

JAN 2 5 2005

In re Application of:	:	
KWANG HOON AHN	:	
Serial No.: 10/203,362	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 25, 2002	:	FROM RECORD
Attorney Docket No.: **MODIP002**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 30, 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 Albert S. Penilla, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time. Note this application is now abandoned.

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

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MODERN INTERNATIONAL
4F, YOUSEONG BUILDING, 981-24
BANGBAE 3-DONG, SEOCHO-GU
SEOUL 137-848
KOREA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Trojan Law Offices
9250 Wilshire Boulevard
Suite 325
Beverly Hills, CA 90202

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Reinhard Albert Sulzbach et al. :
Application No. 10/203,365 : DECISION ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 3036 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 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 Notice of Non-Compliant Amendment, mailed June 27, 2007, which set a shortened statutory period for reply of one (1) month or (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received February 1, 2008.

Carl Friedman
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

Intellectual Property Law Department
Schlumber Doll Research
36 Old Quarry Road
Ridgefield, CT 06877-4108

COPY MAILED

SEP 2 5 2006

OFFICE OF PETITIONS

In re Application of

Jeffryes, et al.

Application No. 10/203,366

Filed: January 13, 2003

Attorney Docket No. US57.0368-WO

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), July 31, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 21, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 22, 2006

The issue fee was received on July 31, 2006.

Form PTOL-85B, filed July 31, 2006, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

2 7 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John F. Letchford
Klehr, Harrison, Harvey, Branzburg & Ellers LLP
260 South Broad Street
Philadelphia, PA 19102

In re Application of SHAW, Wayne E. et al. Application No.: 10/203,370 PCT No.: PCT/US01/03230 Int. Filing Date: 01 February 2001 Priority Date: 04 February 2000 Docket No.: For: SEMIPERMEABLE COATING OF BUILDING MATERIALS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 07 August 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

SEP 05 2006

OFFICE OF PETITIONS

In re Patent No. 7,023,552	:	
Issued: April 4, 2006	:	DECISION ON APPLICATION FOR
Application No. 10/203,374	:	PTA and NOTICE OF INTENT
Filed: August 9, 2002	:	TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: 13833.0036	:	CORRECTION

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT," filed June 2, 2006. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,023,552 on April 4, 2006. The instant request for reconsideration was timely filed June 2, 2006 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 160 days. Applicants argue that the patent is entitled to an adjustment of 202 days.

A review of the application history reveals that at the time of issuance of the patent, an adjustment of 251 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) could be attributed to the Office. The adjustment of 251 days was properly reduced 49 days in accordance with 37 CFR 1.704(c)(10) in connection with the priority document submitted January 4, 2006.

The Office errantly reduced the adjustment 42 days in connection with the communication entitled "Examiner's Communication Under 37 C.F.R. § 104(e) and Submission of Priority Document" submitted January 4, 2006. Review of the communication reveals that the paper is comments on the examiner's statement of reasons for allowance. The Office has found that papers related to comments on the examiner's statement of reasons for allowance do not constitute failures to engage in reasonable efforts to conclude prosecution. *See*, MPEP 2732. *See, also*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001).

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 202 days, as argued by patentees.

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 202 days.

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

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

PALM INTRANET

Day : Friday
Date: 9/1/2006
Time: 13:14:54

PTA Calculations for Application: 10/203374			
Application Filing Date:	08/09/2002	PTO Delay (PTO):	251
Issue Date of Patent:	04/04/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	202
PTO Delay Adjustment:	42		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	09/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	42		
59	04/04/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
58	02/27/2006	RECEIPT INTO PUBS			
57	02/24/2006	DISPATCH TO FDC			
56	02/24/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
55	01/04/2006	ISSUE FEE PAYMENT VERIFIED			
54	02/21/2006	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
53	02/18/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
52	01/04/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		49	54
51	01/04/2006	MISCELLANEOUS INCOMING LETTER		42	
50	02/18/2006	RECEIPT INTO PUBS			
49	01/10/2006	RECEIPT INTO PUBS			
48	01/04/2006	ISSUE FEE PAYMENT RECEIVED			
47	10/12/2005	EXPORT TO INITIAL DATA CAPTURE			
46	10/05/2005	MAIL NOTICE OF ALLOWANCE			
45	10/04/2005	ISSUE REVISION COMPLETED			
44	10/03/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	10/03/2005	NOTICE OF ALLOWABILITY			
42	08/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	08/04/2005	REFERENCE CAPTURE ON IDS			
40	08/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

39	09/28/2005	DATE FORWARDED TO EXAMINER			
38	08/04/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	09/28/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	08/23/2005	RECEIPT INTO PUBS			
35	08/04/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	06/06/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
33	05/13/2005	EXPORT TO INITIAL DATA CAPTURE			
32	05/05/2005	MAIL NOTICE OF ALLOWANCE			
31	05/03/2005	ISSUE REVISION COMPLETED			
30	05/02/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	05/02/2005	NOTICE OF ALLOWABILITY			
28	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	02/09/2005	DATE FORWARDED TO EXAMINER			
26	01/18/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
25	01/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	01/18/2005	WORKFLOW INCOMING AMENDMENT IFW			
23	10/18/2004	MAIL RESTRICTION REQUIREMENT			
22	10/15/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
21	07/23/2004	MISCELLANEOUS INCOMING LETTER			
20	08/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	08/07/2004	DATE FORWARDED TO EXAMINER			
18	07/29/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
17	07/29/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	07/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	06/16/2004	MAIL RESTRICTION REQUIREMENT	251		-1
14	06/14/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
13	03/31/2004	CORRESPONDENCE ADDRESS CHANGE			
12	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	01/13/2004	PRELIMINARY AMENDMENT			
10	11/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	11/24/2003	REFERENCE CAPTURE ON IDS			
8	08/09/2002	PRELIMINARY AMENDMENT			

7	09/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	08/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	11/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	10/04/2002	APPLICATION DISPATCHED FROM OIPE			
3	10/03/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	09/24/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	08/09/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,023,552 B2

DATED : April 4, 2006

INVENTOR(S) : Simon et al.

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

On the cover page, in "[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 160 days", delete the phrase "by 160 days" and insert --by 202 day--.

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Darren SHARMAN
16 Armingford Crescent
Melbourn
Herts SG8 6NG
UNITED KINGDOM

In re Application of: CHURCHMAN, James, et al.
U.S. Application No.: 10/203, 394
PCT No.: PCT/GB01/00430
International Filing Date: 01 February 2001
Priority Date: 09 February 2000
Attorney's Docket No.:P/62101-PCT
For: COIN-VALIDATION ARRANGEMENT

Dear Mr. SHARMAN:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a). Should a patent be granted, you will be designated as an inventor.

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

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

Counsel of Record:
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, New York 10017

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, New York 10017

In re Application of	:	
CHURCHMAN, James, et al.	:	
U.S. Application No.: 10/203, 394	:	DECISION ON PETITION
PCT No.: PCT/GB01/00430	:	UNDER 37 CFR 1.47(a)
International Filing Date: 01 February 2001	:	
Priority Date: 09 February 2000	:	
Attorney's Docket No.:P/62101-PCT	:	
For: COIN-VALIDATION ARRANGEMENT	:	

This decision is issued in response to applicants' 28 February 2003 submission of a petition under 37 CFR 1.47(a). Applicants have been charged the required petition fee.

BACKGROUND

On 01 February 2001, applicants filed international application PCT/GB01/00430 which claimed a priority date of 09 February 2000 and which designated the United States. On 16 August 2001, a copy of the international application was communicated to the USPTO by the International Bureau (IB).

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was thirty months from the priority date, i.e., 09 August 2002.

On 08 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 28 February 2003, applicants filed a response to the Notification Of Missing Requirements, which included the partially executed declaration and the petition under 37 CFR 1.47(a) (with supporting materials) considered herein, payment of the required surcharge, and payment for a three-month extension fee.

DISCUSSION

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

The petition here was accompanied by the required petition fee and includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Darren SHARMAN). This application is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor "cannot be found or reached after diligent effort;" however, the facts presented reveal that applicants have located and communicated with the nonsigning inventor. The petition is therefore treated as an assertion that the nonsigning inventor has refused to execute the application. Under such circumstances, MPEP § 409.03(d) requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." The MPEP also states that "[i]f there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted." Here, the evidence submitted by applicants is contained in the declaration of Jeffrey WATERS, and the attachments thereto. These materials provide firsthand evidence that the nonsigning inventor has been provided with a copy of the application as filed (a prerequisite to claiming a refusal to sign), that applicants have made multiple requests for the nonsigning inventor's signature, and that the inventor has not provided the requested signature. This submission satisifes item (4) above.

Applicants have satisfied all the requirements of a grantable petition under 37 CFR 1.47(a). Accordingly, the petition is appropriately granted

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the Petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The 35 U.S.C. 371 date is 28 February 2003.

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

14 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NEW YORK 10004

In re Application of	:	
KERBEL	:	
Application No.: 10/203,399	:	DECISION ON
PCT No.: PCT/US01/02839	:	
Int. Filing Date: 29 January 2001	:	PETITION UNDER
Priority Date: 28 January 2000	:	
Attorney Docket No.: 11245/47002	:	37 CFR 1.137(b)
For: THERAPEUTIC METHOD FOR REDUCING	:	
ANGIOGENESIS	:	

This decision is in response to applicant's "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)" filed 08 August 2002.

BACKGROUND

On 29 January 2001, applicants filed international application PCT/US01/02839, which claimed a priority date of 28 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 July 2002 (28 July 2002 being a Sunday).

On 08 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, an unexecuted declaration of the inventor, and the instant "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee for a small entity on 08 August 2002.

As to item (2), applicants submitted the petition fee for a small entity of $640.00 on 08 August 2002.

With regard to item (3), petitioner's statement that "[t]he entire delay in filing the required reply from the due date for the reply, (which in this case was the filing of the U.S. national stage transmittal papers), until the filing of this Petition pursuant to 37 C.F.R. §1.137(b), was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." (Note that the required reply was payment of the basic national fee rather than "filing of the U.S. national stage transmittal papers".) If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration filed 08 August 2002 does not comply with 37 CFR 1.497(a)-(b) since it is not executed.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

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

O-I-P-E IAP97
MAR 05 2008
PATENT & TRADEMARK OFFICE

Cof C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.: 6,743,810

/Rei Tsang Shiao/
/Joseph K. McKane/ SPE, AU 1626
Entered 7/23/2009

Certificate
MAR 10 2008
of Correction

Serial No. : 10/203,406

Filed : August 9, 2002

Issued : June 1, 2004

For : Indol-3-yl Derivatives

PETITION FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. § 1.322 OR § 1.323

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

Applicants hereby request that the above-identified U.S. patent be corrected in accordance with the attached Certificate of Correction.

I. C.F.R. § 1.322

☐ The mistake(s) was/were incurred through the fault of the Patent and Trademark Office and is/are clearly disclosed in the records of the Office. Therefore, no fee is due.

II. C.F.R. § 1.323

☒ At least some of the mistakes were made by the applicant. Therefore, a check in the amount of $100.00 in payment of the fee set forth in 37 C.F.R. § 1.20(a) is enclosed herewith.

Enclosed herewith is a Form PTO-1050 (in duplicate) listing errors that have been found in the above-identified patent. The error(s) are of a clerical or typographical nature or of minor character and were made in good faith. The requested correction(s) do not constitute new matter or require reexamination.

03/06/2008 MAHMED1 00000053 6743810
01 FC:1811 100.00 OP
RECEIVED-USPTO
Patent Publication
MAR 10 2008

III. Accordingly, patentees and their assignee respectfully request that the Patent and Trademark Office issue a Certificate of Correction pursuant to 37 C.F.R. § 1.322 or § 1.323, respectively.

Respectfully submitted,

Jennifer J. Branigan, Reg. No. 40,921
Attorney for Applicants

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza I
2200 Clarendon Blvd. Suite 1400
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2481

Date: March 5, 2008

JJB/cht

RECEIVED-USPTO
Patent Publication

MAR 1 0 2008

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 : 6,743,810

DATED : June 1, 2004

INVENTOR(S) : Simon Goodman

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

Column 43, line 62, reads "benzothiadiazole, each of which" should read -- benzothiadiazole --
Column 44, line 31, reads "(pyridin-2ylamino)" should read -- (pyridin-2-ylamino) --
Column 44, line 43, reads "propionic acid or" should read -- propionic acid; or --
Column 45, line 5, reads "a compound of according" should read -- a compound according --
Column 45, line 10, reads "inflammation," should read -- inflammations, --
Column 45, line 13, reads "apoptosis" should read -- apoptosis, --
Column 45, line 16, reads "therapeutic effective" should read -- a therapeutically effective --
Column 45, line 16, reads "of the a compound" should read -- of a compound --

MAILING ADDRESS OF SENDER:
Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd, Suite 1400
Arlington, VA 22201

PATENT NO. 6,743,810

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour 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.

RECEIVED-USPTO
Patent Publication

MAR 1 0 2008

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)
6755683	2004-06-29	10203417	2002-08-08	MIRACO P17AUS

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	/mjb0213/	Date (YYYY-MM-DD)	2008-07-22
Name	Michael J. Bujold	Registration Number	32018

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. 6755683
Issue Date: June 29,2004
Application No. 10203417
Filed: August 8,2002
Attorney Docket No. MIRACO P17AUS

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

This is a decision on the electronic petition, filed July 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

30 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Laurence H. Posorske
Brobeck, Phleger & Harrison LLP
1333 H Street, N.W.
Suite 800
Washington, DC 20005

In re Application of VONEIFF et al
U.S. Application No.: 10/203,428
Int. Application No.: PCT/US00/09302
Int. Filing Date: 07 April 2000
Priority Date: 09 April 1999
Attorney Docket No.: 031937.0007
For: SYSTEM AND METHOD FOR AUTOMATICALLY PROCESSING TISSUE SAMPLES

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 08 August 2002.

BACKGROUND

On 07 April 2000, applicant filed international application PCT/US00/09302, which claimed priority of an earlier United States application filed 09 April 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 November 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 October 2001.

International application PCT/US00/09302 became abandoned as to the United States at midnight on 09 October 2001 for failure to pay the basic national fee.

On 08 August 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES 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

DEC 2 8 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Thomas BURGARD, et al
Application No. 10/203,429
Filed: December 2, 2002
Attorney Docket No. 449122040200

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 31, 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 Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed August 30, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: THOMAS BURGARD
BAVARIASTR. 18B
80336 MUNICH
GERMANY

cc: BELL, BOYD & LLOYD, LLP
P.O.BOX 1135
CHICAGO, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/203,429	12/02/2002	Thomas Burgard	449122040200

CONFIRMATION NO. 8139

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000026405063

Date Mailed: 11/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2007.

- 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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE PC
1100 N GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

MAR 02 2005

OFFICE OF PETITIONS

In re Application of	:
Peter Forsell	:
Application No. 10/203,433	: DECISION GRANTING PETITION
Filed: November 25, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2333-99	:

This is a decision on the petition, filed February 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 October 14, 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 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

27 AUG 2003

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

In re Application of ALLEGRETTI et al. Application No.: 10/203,463 PCT No.: PCT/EP01/01285 Int. Filing: 06 February 2001 Priority Date: 11 February 2000 Attorney Docket No.: 3765-0104P For: (R)-2-ARYL-PROPIONAMIDES, USEFUL IN THE INHIBITION OF IL-8-INDUCED CHEMIOTAXIS OF NEUTROPHILS	DECISION ON PETITION UNDER 37 CFR 1.47(a) and STATUS Under 37 CFR 1.42

This is a decision on applicant's petition under 37 CFR 1.47(a) and a request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office (USPTO) on 27 May 2003. The petition fee and extension of time fees were paid. Petitioner's request for a five month extension of time is granted.

BACKGROUND

On 06 February 2001, applicant filed international application No. PCT/EP01/01285 which claimed priority of 11 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 August 2001.

On 06 September 2001, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 August 2002.

On 08 August 2001, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and surcharge for filing the oath or declaration after the thirty month period.

On 24 October 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was required.

On 27 May 2003, in response to the Notification of Missing Requirements, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of the heir of deceased inventor Carmelo Gandolfi, Janete Peloia Gandolfi. Applicant alleges that Janete Peloia Gandolfi cannot be found or located. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicants. An added page to the declaration is signed by Guilio Agostino Gandolfi, Maria Carla Gandolfi and Arrigo Aldo Gandolfi, on behalf of the deceased inventor, Carmelo Gandolfi. The added page also identifies Janete Peloia Barroso Gandolfi but is not executed by her.

DISCUSSION

37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the instant case, Petitioner alleges that Janete Peloia Barroso Gandolfi, one of the apparent heirs of deceased inventor Carmelo Gandolfi, cannot be located.

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

Item (1) is satisfied with the payment of the $130 petition fee.

With respect to item (2), Petitioner states:

> Janete Peloia Barroso Gandolfi has not signed the Added Page....to the best of the undersigned's knowledge, the non-signing heir Janete Peloia Barroso Gandolfi cannot be reached or located, notwithstanding diligent effort, at this time. Further, the complete address of the non-signing heir is not currently known to the undersigned. At this time, it is only known to the undersigned that Janete Peloia Barroso Gandolfi currently lives in Brazil.

There has been no action taken by petitioner and thus, no sufficient evidence to support a conclusion that "a diligent effort" was made to contact the nonsigning heir. Petitioner should attempt to determine the non-signing heir's forwarding address. There is no documentation that attempts to contact Ms. Gandolfi via an email address or telephone number were made nor were inquiries made at Ms. Gandolfi's last known place of employment or last known residence to ascertain her current address. Further attempts to contact Ms. Gandolfi via telephone, E-mail, her place of employment, etc. should be tried and documented.

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The steps taken to locate the whereabouts of the nonsigning heir should be included in a statement of facts, which must be signed, where at all possible, <u>by a person having firsthand knowledge of the facts</u>, listing the steps taken to locate the whereabouts of the nonsigning inventor. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams that support a finding that the nonsigning inventor cold not be found or reached should be made part of the statement. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

Item (3) is not satisfied because the last known address of non-signing heir Janete Peloia Barroso Gandolfi is not provided.

With regard to item (4), the declaration was executed by the available joint inventors on their behalf of the deceased inventor, Carmelo Gandolfi. However, the added page listing the legal representatives/heirs of the deceased inventor is not acceptable as it does not meet the

requirements of 37 CFR 1.497.

37 CFR 1.497(b)(2) requires the declaration to *state the relationship* of the person(s) (under 37 CFR 1.42) making the declaration for a deceased inventor and *state the citizenship, residency and mailing address* of the heir(s)/legal representative. It is not clear whether all the heirs of Carmelo Gandolfi have been identified as such. The declaration submitted 27 May 2003 does not comply with 37 CFR 1.497(b)(2) in this regard and is unacceptable. Item (4) above is not satisfied.

In sum, Items (2), (3) and (4) above are not satisfied. Petitioner has not demonstrated that a diligent effort has been undertaken to locate Ms. Gandolfi and to ascertain her unavailability. Thus, the evidence submitted does not support a finding that the nonsigning heir cannot be reached or located to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time. The request for status under 37 CFR 1.42 is also refused at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**. The request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

03 MAY 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

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

In re Application of ALLEGRETTI et al. Application No.: 10/203,463 PCT No.: PCT/EP01/01285 Int. Filing: 06 February 2001 Priority Date: 11 February 2000 Attorney Docket No.: 3765-0104P For: AMIDES, USEFUL IN THE INHIBITION OF IL-8-INDUCED CHEMIOTAXIS OF NEUTROPHILS	DECISION ON SUBMISSION OF DECLARATION

This is a decision on applicant's "Renewed Petition under 37 CFR 1.47(a)" and request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office (USPTO) on 27 October 2003.

BACKGROUND

On 24 October 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was required.

On 27 May 2003, in response to the Notification of Missing Requirements, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of the Janete Peloia Gandolfi, heir of deceased inventor Carmelo Gandolfi, who allegedly could not be found or located. The declaration was executed by the joint inventors. Applicants were advised that the added page listing the legal representatives/heirs of the deceased inventor Carmelo Gandolfi was not acceptable as it did not meet the requirements of 37 CFR 1.497.

DISCUSSION

Applicant has now provided an declaration executed by Janete Peloia Barroso Gandolfi, one of the legal representatives of deceased inventor Carmelo Gandolfi. Thus, the petition under 37 CFR 1.47 is **MOOT**.

The added page to the declaration is signed by Janete Peloia Barroso Gandolfi, Guilio Agostino Gandolfi, Maria Carla Gandolfi and Arrigo Aldo Gandolfi, identified as the legal representatives of the deceased inventor Carmelo Gandolfi. The declaration meets the requirements of 37 CFR 1.497(b)(2), in that, the declaration states the relationship of the person(s) (under 37 CFR 1.42) making the declaration for a deceased inventor and states the citizenship, residency and mailing address of the heir(s)/legal representative as well as that of the deceased inventor. Thus, the declaration is acceptable.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **MOOT**. The request for status under 37 CFR 1.42 is **GRANTED**.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **27 October 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES 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 2004

MAILED

NOV - 2 2004

OFFICE OF THE DIRECTOR
TC 3600

Breiner & Breiner
115 North Henry Street
PO Box 19290
Alexandria, VA 22320-0290

In re Application of :
Giulio Betti et al. :
Application No. 10/203,471 :
Filed: August 12, 2002 :
For: DEVICE FOR ELIMINATING THE FRONT :
END TRIMMINGS FROM SERIES OF ROLLS
AND FOR SORTING THE ROLLS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on August 18, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated June 29, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 10/25/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 145
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

Birch Stewart Kolasch & Birch
PO Box 747
Falls Church, VA 22040-0747

In re application of
Hideki Tsukamoto
Application No. 10/203,477
Filed: August 12, 2002
For: SYSTEM FOR MANAGING/TRACING WASTE DISPOSAL STATE

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition submitted on October 18, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicant's invention relates to a waste tracking and imaging system. The petition states, "A waste tracking and imaging system such as the one disclosed and claimed in the present application would make the monitoring of such hazardous wastes easier to do and would allow exporting countries more control over what is being shipped overseas for disposal. It would also reduce reliance on possibly inaccurate manifests. This would reduce the abuses that occur with the present system which currently result in an unnecessarily high level of pollution to the environment."

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, without some details setting forth how applicant's invention functions to monitor hazardous wastes, allow exporting countries more control over what is being shipped overseas, reduce reliance on inaccurate manifests and reduce the abuses that occur in the present system, the above statements are nothing more than conclusions and, as such, are inadequate to establish for the record that the invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil.

The petition to make special based on Environmental Quality is **DISMISSED.**

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. Applicants 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.

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

SNM/rwg: 12/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 11 2005

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

In re application of Hideki Tsukamoto Application No. 10/203,477 Filed: August 12, 2002 For: SYSTEM FOR MANAGING/TRACING WASTE DISPOSAL STATE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)**

This is a decision on the renewed petition submitted on February 25, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicant's petition includes a declaration by the applicant which details how and in what manner applicant's invention functions to monitor hazardous wastes, allowing exporting countries more control over what is being shipped overseas and reducing reliance on inaccurate manifests. Thus, proper monitoring of hazardous waste as set forth in applicant's invention would ensure less pollution of the environment resulting in the maintenance of the basic life-sustaining elements-air, water and soil.

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

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

RAR/jwk: 9/10/05

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

NATIONAL INSTITUTE OF HEALTH
C/O NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30303

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:
Leonardo, et al.	: DECISION ON APPLICATION
Application No. 10/203,495	: FOR PATENT TERM ADJUSTMENT
Filed: August 9, 2002	:
Atty. Dkt. No.: 1401.0365U3	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(B)," filed May 15, 2006. This matter is being treated under 37 CFR 1.705(b)

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment (PTA) at the time of the allowance remains zero days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed May 15, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed May 15, 2006. Applicants submit that the reduction of 298 days is in error and that the proper reduction for applicants' failure to engage in reasonable efforts to conclude prosecution is 96 days.

An adjustment of 82 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 82 days is reduced 96 days, as argued by applicants, in accordance with 37 CFR 1.704(b) in connection with applicants' response to the non-final Office action re-mailed, April 27, 2005.

In view thereof, at the time of allowance, the application is entitled to an adjustment of zero days.

Receipt is hereby acknowledged of the required The required Patent Term Adjustment application fee of $200.00.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Tominaga	:	
Application No. 10/203,529	:	DECISION GRANTING PETITION
Filed: August 9, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYSO-221	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 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 January 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2173 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Tominaga	:	
Application No. 10/203,535	:	DECISION GRANTING PETITION
Filed: August 9, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYSO 3.3-222	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 18, 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 November 2, 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

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

13 AUG 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Janis K. Fraser
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of BONNERT et al	:	
U.S. Application No.: 10/203,538	:	
PCT Application No.: PCT/SE01/00246	:	
Int. Filing Date: 07 February 2001	:	
Priority Date Claimed: 11 February 2000	:	DECISION
Attorney Docket No.: 06275-300US1	:	
For: PYRIMIDINE COMPOUNDS AND THEIR USE AS MODULATORS OF CHEMOKINE RECEPTOR ACTIVITY	:	

This is in response to applicant's "Petition for Substitute Application" filed 29 April 2004, which is being treated under 37 CFR 1.182. The requisite petition fee will be charged to Deposit Account No. 06-1050 as authorized in the petition.

BACKGROUND

On 07 February 2001, applicant filed international application PCT/SE01/00246, which claimed priority of an earlier United Kingdom application filed 11 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 16 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 11 August 2002.

On 09 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a transmittal letter (Form PTO-1390) which identified the International Application Number as "PCT/SE01/02466".

On 11 February 2003, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 24 December 2003, the USPTO mailed a non-final office action.

On 29 April 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

According to the petition, applicant inadvertently listed the incorrect International Application Number on the transmittal letter. A review of the application file reveals that the papers accompanying the transmittal letter listed International Application Number PCT/SE01/00246 and/or the title of invention associated with International Application Number PCT/SE01/00246. Furthermore, the transmittal letter listed the title of invention associated with International Application Number PCT/SE01/00246. Thus, it is reasonable to conclude that applicant intended to file national stage papers based on International Application Number PCT/SE01/00246. The petition sets forth the specific circumstances as to how and when the error was made and discovered and that the mistake was an inadvertent error.

CONCLUSION

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

The office action mailed 24 December 2003 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including (1) replacing the current description, claims, and drawings with the description, claims, and drawings from International Application Number PCT/SE01/00246 and (2) forwarding the application to the appropriate technology center for examination.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William A. Drucker
Suite 800
1901 L Street, N.W.
Washington, DC 20036-3506

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Rene Duranton	:	
Application No. 10/203,543	:	DECISION ON PETITION
Filed: November 20, 2002	:	TO WITHDRAW
Attorney Docket No. DURANTON 1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to William A. Drucker has been revoked by the applicant of the patent application on March 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Browdy and Neimark, P.L.L.C.**
642 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 SEP 2003

LEHNHARDT AND ASSOCIATES
Patent Agents
20 Nassau Street, Suite 225
Princeton, NJ 08542

In re Application of:	:	
RUBIN, Leo	:	DECISION ON PETITION TO
U.S. Application No.: 10/203,544	:	REVIVE ABANDONED
PCT No.: PCT/US01/44578	:	APPLICATION UNDER 37
International Filing Date: 30 November 2001	:	CFR 1.137(b)
Priority Date: 06 December 2000	:	
Attorney's Docket No.: 50000-2003US	:	
For: A MEDICAL DEVICE TO RESTORE	:	
FUNCTIONS OF A FIBRILLATING HEART ...	:	

The petition to revive under 37 CFR 1.137(b) filed 05 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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

It is noted that applicants' 05 August 2003 submission also included an executed declaration in compliance with 37 CFR 1.497.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 05 August 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 16 2006

Lerner & Greenberg
P.O. Box 2480
Hollywood, FL 33020-2480

In re Application of:	:	
Bernhard Engl	:	DECISION ACCEPTING
Serial No.: 10/203,550	:	PAPERS
Filed: August 05, 2002	:	
Attorney Docket No.: **J&R-0906**	:	

This is a response to the petition filed on November 04, 2005, to accept a copy of a response, in place of the apparently lost original response, as timely.

The petition is GRANTED.

A Requirement for Restriction/Election (Requirement), setting a one (1) month period for response, was mailed on February 24, 2005. No Notice of Abandonment has been mailed.

The petitioner asserts that on March 23, 2005, a response to the Requirement was filed via facsimile. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a) showing a date of transmission of March 23, 2005, a copy of the outgoing mail log for March 23, 2005, and a statement which attests to the previous timely transmission of the response to the PTO.

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 was mailed or 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. Accordingly, the petition is **granted,** and the copy of the response filed with the petition on November 04, 2005, is accepted since the original has been lost.

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

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/02/2010

Applicant	: Mario Keller	: DECISION ON REQUEST FOR
Patent Number	: 7637537	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/203,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1177** 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

MAILED
FROM DIRECTORS OFFICE

SEP 22 2005

TECHNOLOGY CENTER 3600

William L. Brooks
Armstrong, Kratz, Quintos, Hanson & Brooks, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of
Kenji Yoneda et al.
Application No. 10/203,620
Filed: August 19, 2002
For: ILLUMINATOR FOR PLANT GROWTH

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 June 15, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☒ Postcard receipt being dated December 21, 2004.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed_____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/mng: 8/10/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Sol Sheinbein
c/o Anthony Castorina
G E Ehrlich
Suite 207
2001 Jefferson Davis Highway
Arlington VA 22202

MAILED

JUL 23 2003

Technology Center 2100

In re Application of: WEISS et al. Application No. 10/203,645 Attorney Docket No. 25014 Filed: August 22, 2002 For: SYSTEMS AND METHODS FOR GENERATING AND PROVIDING PREVIEWS OF ELECTRONIC FILES SUCH AS WEB FILES	))))))))	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 cfr § 1.102(d) and MPEP 708.02 (VIII) – ACCELERATED EXAMINATION**

This is a decision on the petition to make special accompanied by a fee, filed June 2, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application. The petition is being considered a request for consideration under 37 CFR § 1.496.

Issues

Petitioners' state that all claims are directed to a single invention; and that an election without traverse would be made if the Office determines the claims presented are not obviously directed to a single invention. They state this application is the national phase of application of PCT/IL/00172 and that copies of the references cited in the international search report along with a copy of the international examination report have been included. Petitioners also note that 37 CFR § 1.496 provides that a national stage application will be taken out of order when the international preliminary examination report is satisfactory as to novelty, inventive step and industrial applicability.

Decision

The requirements of 37 CFR §1.102(d) are set forth in MPEP 708.02(VIII). The petition does not fully satisfy the requirements under MPEP 708.02(VIII). However, petitioners have also relied upon 37 CFR § 1.496. Applicants' statement in the preliminary amendment filed on August 22, 2002 that "This preliminary amendment corresponds to the amendment filed in response to the Written Opinion." is taken to mean pending claims 90-130 in the present application are identical to claims 1-41 in the corresponding application no. PCT/IL01/00172. 37 CFR § 1.496(b) states "Such national sTage applications in which the basic national fee as set forth in § 1.492(a)(4) has been paid will be taken up out of order." In addition, MPEP § 708

states certain national stage applications that have been indicated as satisfying the criteria of PCT Article 33(1)-(4) as to novelty, inventive step and industrial applicability will be taken up out of order.

Therefore, the petition is **GRANTED**. The application has been granted 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

15 NOV 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

Felix J. D'Ambrosio
Bacon & Thomas, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314-1176

In re Application of	:	
YAMAZAKI, et al.	:	
PCT No.: PCT/JP00/06670	:	DECISION ON PETITION
Application No.: 10/203,647	:	
Int. Filing Date: 27 September 2000	:	UNDER 37 CFR 1.182
Priority Date: 01 March 2000	:	
Atty. Docket No.: YAMA3010/FJD	:	
For: PETITION UNDER 37 CFR 1.182	:	

This is a decision on applicant's "PETITION UNDER 37 C.F.R. 1.182" filed on 14 September 2004 in the United States Patent and Trademark Office (USPTO) to have the filed comments placed in the present application. The $130.00 petition fee will be charged to Deposit Account No.: 02-0200 as authorized.

37 CFR 1.104(e) provides that an applicant or patent owner may file a statement commenting on the reasons for allowance within such time as may be specified by the examiner. As such, the petition under 37 CFR 1.182 is **DISMISSED**. The filed comments will be placed in the application file as requested.

Brian Hearn
Petitions Attorney
Office of Petitions

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES 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: 8-21-06

Paper No.
MB

In re Application of
Tomoyasu Nakamura
Serial No. 10/203,705
Filed: August 13, 2002
For: FLAVOR-ENHANCING AGENT FOR FOODS

DECISION
ON
PETITION

This is a decision on the petition filed July 14, 2006, requesting the withdrawal of the requirement to cancel the "new matter" to the specification by the Amendment of April 11, 2005, which was issued by the examiner in the Final Office Action of May 15, 2006. Given the circumstances outlined in the petition, the petition is considered a timely submission under 37 CFR 1.181.

Issues:

The Applicants provide the following arguments: (1) In response to the Amendment of April 11, 2005, the examiner made the requirement to cancel the amendment to the specification changing "flavor-enhancing" to "umami-enhancing", indicating that this change was new matter. (2) The applicant has filed a certified translation of PCT/JP01/00898, of which the present application is the national stage filing thereof, which shows that "umami-enhancing" was improperly initially translated as "flavor-enhancing". (3) The applicant submits that a national stage filing of a PCT application requires filing of an English translation of the international application, if not published in English and if not filed in another application, and if the translation is found defective, a Notification of Missing Requirements (PCT/DO/EO/905) would be sent to the applicant to correct the defective requirements. The Notification of Missing Requirements should have been sent out in the present application, thus giving the applicant an opportunity to correct the above error.

Decision:

It appears that the applicant's arguments do indeed have merit.

According to MPEP 1893.01(d): If applicant has timely paid the basic national fee and submitted the copy of the international application but the translation is missing or is defective, a Notification of Missing Requirements (PCT/DO/EO/905) will be sent to applicant setting a period to correct any missing or defective requirements.

No such Notification of Missing Requirements (PCT/DO/EO/905) was sent to the applicant and it appears by the submission of the certified translation of PCT/JP01/00898, that the original translation was clearly defective. Therefore, the applicant should have been given the opportunity to correct such defect. Since the applicant submitted a certified translation of PCT/JP01/00898, showing that "flavor-enhancing" should have been "umami-enhancing", and amended the specification accordingly, it is deemed that the above mentioned change is not new matter. Accordingly, the requirement to cancel the "new matter" to the specification in the Final Office Action of May 15, 2006 is hereby withdrawn. It should be noted that the applicant's period for reply to the Final Office Action still runs from the mailing date of that office action.

The petition is **GRANTED.**

JMStone

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

Harris A. Pitlick
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#5

25 AUG 2003

Brad R. Bertoglio
GREENBERG TRAURIG
77 W. Wacker Drive, Ste. 2500
Chicago, Illinois 60601

In re Application of	:	
DE BAST, Christophe	:	
PCT No.: PCT/GB01/00665	:	DECISION ON PETITION
U.S. Application No: 10/203,714	:	UNDER 37 CFR 1.47(b)
International Filing Date: 16 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney's Docket No.: 57660.010072	:	
For: MOBILE TELEPHONE WITH IMPROVED	:	
MAN MACHINE INTERFACE	:	

This decision is issued in response to the petition under 37 CFR 1.47(b) filed 03 March 2003. Applicant has paid the required petition fee.

BACKGROUND

On 16 February 2001, applicant filed international application PCT/GB01/00665 which claimed a priority date of 18 February 2000 and which designated the United States. On 23 August 2001, a copy of the international application was communicated to the United States Patent Office ("USPTO") by the International Bureau ("IB").

On 15 August 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 18 August 2002.

On 13 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 24 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than thirty months after the priority date were required. The Notification also informed applicant that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 03 March 2003, Petitioner filed the present petition (with required extension fees ans surcharge). The petition seeks acceptance of the application without the signature of sole inventor Christophe De Bast, whom Petitioner asserts has refused to execute the declaration.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The submission here satisfies items (1), (2), (3), (4), and (6).

Regarding item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)...
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted....
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

Here, Petitioner has not provided sufficient evidence to show that Mr. De Bast has assigned his rights in the present application to the petitioner. The assignment of the priority application from Mr. De Bast to VTech Mobile Limited. has been furnished; however the Purchase Agreement for the Transfer of Intellectual Property Rights between Donovan Developments Limited and VTech Mobile Limited, provided by petitioner, does not adequately identify the present application. In fact, the purchase agreement broadly relates to the sale of assets and rights to "the development of a product family generically referred to as 'SPT1' " without identifying that the purchase includes PCT/GB01/00665.

Accordingly item (5) above has not been satisfied and applicant's petition must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

18 MAY 2004

87

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brad R. Bertoglio
GREENBERG TRAURIG
77 W. Wacker Drive, Ste. 2500
Chicago, Illinois 60601

In re Application of	:	
DE BAST, Christophe	:	
PCT No.: PCT/GB01/00665	:	DECISION ON RENEWED
U.S. Application No: 10/203,714	:	PETITION UNDER
International Filing Date: 16 February 2001	:	37 CFR 1.47(b)
Priority Date: 18 February 2000	:	
Attorney's Docket No.: 57660.010072	:	
For: MOBILE TELEPHONE WITH IMPROVED	:	
MAN MACHINE INTERFACE	:	

In a decision mailed by this Office on 25 August 2003, the petition under 37 CFR 1.47(b) filed 03 March 2003 was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, the 37 CFR 1.47(b) applicant had not provided an adequate showing of the transfer of proprietary interest in the present application from VTech Mobile Limited (VTech) to the 1.47(b) applicant, Donovan Developments Limited (Donovan).

On 27 October 2003, petitioner filed a response to the 25 August 2003 decision, treated herein as a renewed petition. The submission includes a "Nunc Pro Tunc Assignment Agreement" from VTech to Donovan. This document refers to a transfer from VTech to Donovan of "right, title, and interest in all pending applications for United States and foreign Letters Patent identified in the attached Exhibit A, ..." However, the submitted assignment document is incomplete in that it is not accompanied by the list of applications referred to as Exhibit A in the assignment document. Because the assignment document submitted is incomplete, the present submission cannot be accepted as demonstrating the chain of title from VTech to Donovan for the present application. Accordingly, petitioner has not satisfied all the requirements for a grantable petition.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

09 DEC 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

Brad R. Bertoglio
GREENBERG TRAURIG
77 W. Wacker Drive, Ste. 2500
Chicago, Illinois 60601

In re Application of:	:	
DE BAST, Christophe	:	DECISION ON SECOND
U.S. Application No.: 10/203,714	:	RENEWED PETITION UNDER
PCT No.: PCT/GB01/00665	:	37 CFR 1.47(b)
International Filing Date: 16 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney's Docket No.: 57660.010072	:	
For: MOBILE TELEPHONE WITH	:	
IMPROVED MAN MACHINE	:	
INTERFACE	:	

In a decision mailed by this Office on 18 May 2004, petitioner's renewed petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy the remaining requirements of a grantable petition. Specifically, the assignment document submitted 27 October 2003 to demonstrate the transfer of rights in this application from original assignee VTech Mobile Limited to the 37 CFR 1.47(b) applicant, Donovan Developments Limited, was found to be incomplete.

On 12 July 2004, petitioner filed the second renewed petition considered herein. This submission includes a complete version of the assignment filed 27 October 2003. This assignment now includes the attached exhibit which lists the specific patent applications assigned by VTech Mobile Limited to Donovan Developments Limited. The present application is included on this list.

Based on this submission, applicants have now submitted assignment materials demonstrating the transfer of proprietary interest in the present application from the nonsigning inventor to the 37 CFR 1.47(b) applicant, Donovan Developments Limited. Accordingly, the final requirement for a grantable petition under 37 CFR 1.47(b) has now been satisfied.

CONCLUSION

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

The application is accepted without the signature of nonsigning inventor Christophe DE BAST.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 March 2003.

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

09 DEC 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

Christophe DE BAST
15 Briars Close
Aylesbury
Buckinghamshire HP199PN
UNITED KINGDOM (GB)

In re Application of: DE BAST, Christophe
U.S. Application No.: 10/203,714
PCT No.: PCT/GB01/00665
International Filing Date: 16 February 2001
Priority Date: 18 February 2000
Attorney's Docket No.: 57660.010072
For: MOBILE TELEPHONE WITH IMPROVED MAN MACHINE INTERFACE

Dear Mr. DE BAST:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join 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.

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

Counsel Of Record:
Brad R. Bertoglio
GREENBERG TRAURIG
77 W. Wacker Drive, Ste. 2500
Chicago, Illinois 60601

04 JUN 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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

Brad R. Bertoglio
LAW OFFICES OF DICK AND HARRIS
Suite 3800
181 West Madison Street
Chicago, Illinois 60602

In re Application of
SOYER, Sebastian
U.S. Application No.: 10/203,715
PCT No.: PCT/GB01/00672
Int. Filing Date: 16 February 2001
Priority Date: 18 February 2000
Attorney's Docket No.: 2010224
For: METHOD OF MEASURING THE BATTERY LEVEL IN A MOBILE TELEPHONE

DECISION

The decision is in response to the "Petition to File Application Under 37 CFR §1.47(b)" ("Pet.") submitted on 31 March 2003.

BACKGROUND

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

On 31 March 2003, petitioners submitted the instant petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a $130.00 petition fee; a $130.00 surcharge fee; a four-month extension fee of $1,450.00; a declaration executed by Brad R. Bertoglio for Donovan Developments Limited ("DONOVAN") on behalf of the sole inventor; a copy of an assignment of British Patent Application No. 0003947.9 to VTech Mobile, Ltd. ("VTECH"); a copy of a Purchase Agreement for the Transfer of Intellectual Property Rights from VTECH to DONOVAN; and a copy of a letter and other documents mailed to Mr. Soyer dated 01 November 2002.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventors cannot be reached after diligent effort, (3) a statement of the last known address of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventors, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the

application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The appropriate petition and extension fees have been paid. The last known address of the sole inventor is listed in the petition as:

6 The Falcon
Watermead, Aylesbury
Buckinghamshire HP20 2RT
United Kingdom

With regard to item (6), section 409.03(g) of the MPEP states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." In the instant petition, counsel does include a statement that "[a]pplicant filed this US National Phase Application on August 13, 2002 in order to meet a required filing date and prevent the loss of patent rights." Pet. at ¶ 6.

Therefore, items (1), (3) and (6) of 37 CFR 1.47(b) are satisfied.

Concerning item (2), petitioner claims that the sole inventor "cannot be reached." Id. at ¶ 1. Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) discusses the requirements to show that an inventor cannot be reached and states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. **Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.** (Emphasis added).

In this case, the 37 CFR 1.47(b) applicant has not provided all of the required documentary evidence such as a copy of the Federal Express receipt for the documents mailed 01 November 2002. Id. at ¶ 8, 9. The 37 CFR 1.47(b) has also not established that a diligent effort was made by attempting to locate Mr. Soyer via the internet. For this reason, item (2) is not satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration signed by counsel for the nonsigning inventor. Counsel also states in the petition that "he is authorized to sign the oath and declaration on behalf of Applicant." Section 409.03(b) of the MPEP states, in part:

> A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. **Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324.** (Emphasis added).

In this case, counsel has made the requisite statement of authority for DONOVAN. However, the declaration is still not sufficient until the assignee establishes some type of ownership that meets the requirements outlined in item (5) of 37 CFR 1.47(b).

Concerning item (5), section 409.03(f) of the MPEP states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. **The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)**. (Emphasis added).

In the instant petition, petitioners claim proprietary interest because the invention was assigned to the 37 CFR 1.47(b) applicant, DONOVAN. Petitioner states that the priority claim for PCT/GB01/00672 was assigned from the inventor to VTECH using an assignment dated 03 June 2001. A copy of this agreement was included with instant

petition. A review of this assignment shows that the sole inventor assigned his rights in British patent application No. 0003947.9 filed 18 February 2002 together with all rights for international applications to VTECH.

Petitioner then claims that VTECH assigned all of its intellectual property rights to DONOVAN on 11 March 2002. A copy of this agreement was submitted with the instant petition and a subsequent review of this agreement verifies that VTECH assigned "all intellectual property rights relating to the development of a product family generically referred to as SPT1."

However, it is not clear if the above-identified application was included in this transfer. The product family generically referred to as SPT1 was not defined in the agreement and petitioner has not provided any documentation that verifies that the above-identified application was included in this family. The assignment must clearly indicate that the above-captioned application was assigned to the 37 CFR 1.47(b) applicant. In addition, a statement under 37 CFR 3.73(b) by the assignee is also required. For these reasons, item (5) is not yet satisfied.

Since petitioner failed to meet item(s) (2), (4) and (5) of 37 CFR 1.47(b), it is <u>not</u> appropriate to accept this application under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are available.

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

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 6/10/2008
Patent No. : 7,366,661 B2
Inventor(s) : Tsuji et al.
Issue Date : April 29, 2008
Title : **INFORMATION EXTRACTING DEVICE**
Doc./File No. : **09792909-5461**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting, the alleged error in the omission of priority data, section 119 of 35 U.S.C. requires that both a claim for priority and a certified copy of the foreign application be filed in order that a patent issue with this data. No record can be found of a certified copy of foreign application No. (JP) P2000-38064.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

ecw

10 FEB 2005

45

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Senniger Powers Leavitt & Roedel
One Metropolitan Square 16th Floor
St Louis MO 63102

In re Application of	:	
MUELLER et al.	:	DECISION ON
Application No.: 10/203,769	:	
PCT No.: PCT/US01/04512	:	PAPERS
Int. Filing Date: 13 February 2001	:	
Priority Date: 14 February 2000	:	UNDER 37 CFR 1.42
Attorney's Docket No.: PHA 4150.1	:	
For: USE OF N-SUBSTITUTED-1,5-DIDEOXY-	:	
1,5-IMINO-D-GLUCITOL COMPOUNDS FOR	:	
TREATING HEPATATIS VIRUS INFECTION	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 24 April 2003, which was accompanied by a declaration of inventors. The indication in this declaration that sole inventor Bryant is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 February 2001, applicants filed international application PCT/US01/04512, which designated the United States and claimed a priority date of 14 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 August 2002.

On 13 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 25 September 2002, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 24 April 2003, applicant submitted the instant submission, which was accompanied by a declaration of the inventor, a petition/fee for a five-month extension of time, and the surcharge under 37 CFR 1.492(e). The indication in this declaration that inventor Bryant is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 24 April 2003 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 24 April 2003 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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.
10/203,786	08/14/2002	Naohiro Tanno	226973US2XPCT	1799

22850 7590 08/04/2004

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

EXAMINER
BROWN, KHALED

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 08/04/2004

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

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20040714

DATE MAILED:

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

Commissioner for Patents

Attached is a PTO- 892 Notice of References Cited Form and a Response to the Petition filed May 10, 2004 and June 7, 2004.

GREGORY J. TOATLEY, JR.
PRIMARY EXAMINER
SPE
2877

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/203786	8/14/2002	Naohiro TANNO	226973US2XPCT

EXAMINER
K. Brown

ART UNIT	PAPER
	20040714

DATE MAILED:

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

Commissioner for Patents

Attached is a PTO- 892 Notice of References Cited Form and a Response to the Petition filed May 10, 2004 and June 7, 2004.

GREGORY J. TOATLEY, JR. SPE.
PRIMARY EXAMINER
2877

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

July 14, 2004

Gregory Maier
OBLON, SPIVAK, McCLELLAND,MAIER
&NEUSTADT, P.C.
1940 Duke Street
Alexdria, VA 22314

In re Application of:	:	
TANNO, NAOHIRO	:	DECISION ON REQUEST THAT
Application No. 10/203,786	:	THE INFORMATION DISCLOSURE
Filed: August 14, 2002	:	STATEMENT (IDS) FILED ON
For: OPTICAL INTERFERENCE	:	AUGUST 14, 2002, INDICATE
TOMOGRAPHIC IMAGE OBSERVING		CONSIDERATION OF REFERENCE
APPARATUS		"AW" CITED IN THE FILED IDS

This is a decision on the request that the Information Disclosure Statement (IDS) filed on August 14, 2002, indicate consideration of reference "AW" in the filed IDS under 37 C.F.R. § 1.181, filed May 10, 2004 and June 7, 2004.

The request is **dismissed** as moot.

A review of the application file record reveals that a proper indication of consideration of each of the references properly cited by applicant in the filed IDS was entered into the file and mailed to applicant on March 30, 2004. Reference "AW" has not been considered on the IDS form 1449 because its citation does not comply with rule 37 CFR 1.98 (5). 37 CFR 1.98 (5) requires "Each publication listed in an information disclosure statement must be identified by publisher, author (if any) title, relevant pages of the publication, date, and place of publication". However, in an effort to resolve the matter, the examiner has since obtained what the examiner believes to be the required information and has listed the reference on a Notice of References Cited form 892 in a Communication to applicant. As such, the petition under 37 C.F.R. § 1.181 that the Information Disclosure Statement (IDS) filed on August 14, 2002, be initialed by the examiner to indicate consideration of reference "AW" has been dismissed as moot.

Inquiries related to this decision should be directed to Gregory Toatley at (571) 272-2059.

Gregory Toatley, Supervisory Patent 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

DEC 22 2005

McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817

In re Application of Ryuzou Kubota, et al. Application Number 10/203,792 Filed: December 2, 2002 For: TOILET PAPER ROLL AND METHOD OF MANUFACTURING THE PAPER ROLL	: : : : : : :	DECISION ON PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW FINALITY

This is a decision on the petition filed on November 18, 2004 under 37 C.F.R. §1.181 requesting that the finality of the office action mailed on August 25, 2004, be withdrawn.

The petition is **DISMISSED as moot**.

The petition alleges that the finality of the office action is premature because it fails to comply with the guidelines of MPEP §706.07(b), which states that in a final rejection, the examiner shall clearly state the reasons in support of the grounds of rejection applied to the claims in the application.

This application became abandoned on November 25, 2004, for failure to timely reply within the meaning of 37 CFR 1.113 to the final rejection mailed on August 25, 2004. The amendment filed on November 18, 2004, failed to place the application in condition for allowance and was not entered for the reasons set forth in the advisory action mailed on December 7, 2004. The filing of the instant petition did not stay the running of the period for response to the final rejection[1].

[1] **§ 1.181 Petition to the Director.**

.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Because the application is now abandoned, the issues raised in the instant petition are moot. A notice of abandonment will be issued in due course.

Robert J. Oberleitner, Director
Technology Center 3600
(571) 272-5350

RJO:km:12/6/05

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

MAIL

OCT 21 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Mats Björkman
Application No. 10/203,796
Filed: August 14, 2002
For: **METHOD AND MEANS FOR MONITORING DRIVER ALERTNESS**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed June 16, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed October 23, 2003. A Notice of Abandonment was mailed on June 14, 2004.

Petitioner asserts that a proper response was timely filed on January 23, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office (USPTO) on January 23, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for appropriate processing and entry of the amendment. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED

AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Bridon et al.	:	DECISION ON APPLICATION
Application No. 10/203,809	:	FOR
Filed: August 12, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 500862002400	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 25, 2007. Applicants request that the initial determination of patent term adjustment be corrected from two hundred thirteen (213) days to two hundred nineteen (219) 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 nineteen **(219)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 20, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 213 days. The instant application for patent term adjustment was timely filed[1]. The specific basis for applicants' assertion that the initial determination of patent term adjustment should be 219 days is that a reduction of 104 days and not 110 days should have been entered for their response deposited pursuant to 37 C.F.R. §1.10 on January 24, 2006. Applicants contend that the Office accorded the response

[1] PALM records indicate that the Issue Fee was received on April 27, 2007.

an incorrect filing date of January 30, 2006. Thus, applicants argue the Office incorrectly calculated the delay under 37 C.F.R. § 1.704 due to this response as 110 days, instead of 104 days. Applicants further reference a petition under § 1.10(c) filed to accord the response a filing date of January 24, 2006.

Applicants state that the application is not subject to a terminal disclaimer.

Applicants' arguments and evidence are persuasive. Under separate cover, a decision on the petition under § 1.10 supporting the conclusion that the relevant amendment is entitled to a filing date of January 24, 2006 has been mailed. More importantly, the amendment is of record with a date of receipt thereon of January 24, 2006. 37 C.F.R. §1.704(c)(7) provides that:

> 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.

Accordingly, as stated by applicants, pursuant to 37 C.F.R. § 1.704(c)(7), a period of reduction of 104 days should have been entered (for the period beginning on October 13, 2005 and ending on January 24, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is TWO HUNDRED NINETEEN **(219)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess

of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES 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.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED

AUG 07 2007

OFFICE OF PETITIONS

In re Application of :
Bridon et al. :
Application No. 10/203,809 : DECISION ON PETITION
Filed: August 12, 2002 :
Atty Docket No. 500862002400 :

This is a decision on the "PETITION UNDER 37 CFR §1.10(c) TO ACCORD A FILING DATE AS OF THE DATE OF DEPOSIT WITH THE USPS FOR A RESPONSE FILED," filed April 25, 2007, requesting that an amendment filed in the above-identified application be accorded a filing date of January 24, 2006, rather than the presently accorded filing date of January 30, 2007.

For the reasons stated herein, the petition is **DISMISSED AS MOOT**.

Petitioner states that the amendment, including the accompanying Sequence Listing (both computer readable and paper copies), was submitted on January 24, 2006 to the United States Patent and Trademark Office by "Express Mail Post Office to Addressee" service of the United States Postal Service pursuant to 37 C.F.R. § 1.10. In support thereof, petitioner submits *inter alia* a true copy of the Express Mail mailing label used and a copy of the amendment as originally filed with the Express Mail mailing label number thereon.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

> (1) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS.
>
> (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).

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Petitioner's evidence is persuasive. Petitioner has promptly established that the amendment was filed on January 24, 2006. The paper as filed bears the Express Mail mailing label number. The relevant Express Mail mailing label shows both a handwritten

date-in of January 24, 2006 and an Official USPS date-stamp of January 24, 2006.

Nonetheless, consideration of this evidence is unnecessary. The amendment is of record in the image file wrapper of the application with an Office date-stamp of receipt thereon of January 24, 2006. The entry in the PALM records showing that this amendment was received on January 30, 2006 is in error. The image file wrapper is the Official record and therefore, no further correction is required. The patent term adjustment will be calculated based on the date shown on the paper in the image file wrapper.

No petition fee is required and none has been charged.

The application is being forwarded to the undersigned for separate consideration of the application for patent term adjustment filed April 25, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jones Day
222 East 41st Street
New York, New York 10017

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of
Bridon et al.
Application No. 10/203,809
Patent No: 7,268,113
Filed: September 11, 2007
Attorney Docket No. 22102-016US1/2410US

:DECISION GRANTING PTA APPLICATION and NOTICE OF ISSUANCE OF CERTIFICATE OF CORRECTION

This decision is in response to Applicants' "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)" filed on November 13, 2007[1] requesting that the Office remove the one hundred and twenty day reduction assessed after the mailing of the notice of allowance. Applicant believes that the reduction should be limited to 105 days.

Applicants' application is **GRANTED.** The Office will *sua sponte* issue a certificate of correction reflecting this decision. The Office will also adjust the PTA calculation to reflect this decision. The correct determination at the time of the mailing of the notice of allowance is 206 days.

Applicants argue that the applicants should not be assessed a reduction of 120 days because the "miscellaneous incoming letter" was in fact a petition which was decided on August 7, 2007, 105 days after the petition. Accordingly, applicants assert that the proper amount of PTA is 206 days.

Applicants are correct about the proper amount of PTA. The Office should have only assessed a 105 day reduction for the miscellaneous incoming letter filed on April 25, 2007. The Office notes that the reduction was assessed for 120 days. However, pursuant to 37 CFR 1.704(c)(10) the date of the mailed response stops the reduction period if such mailed response period is less than four months. Accordingly, appellants are absolutely correct that the reduction should have been limited to 105 days. The Office erred in assessing to much delay to applicants PTA determination.

[1]It is noted that November 11, 2007 was a Sunday and November 12, 2007 was a Monday. Accordingly, the Office will consider the petition that was filed on Tuesday November 13, 2007 as a timely petition.

Application No. 10/203,809

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate fo correction.

The Office acknowledges receipt of the $200.00 fee. No additional fees are required by applicants.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A. Fries

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

cc: Draft certificate of correction
Adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,268,113

DATED : Sep. 11, 2007

INVENTOR(S) : Bridon et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (191) days

Delete the phrase "by 191days" and insert – by 206 days--

Day : Friday
Date: 3/14/2008

PALM INTRANET

Time: 16:20:23

PTA Calculations for Application: 10/203809			
Application Filing Date:	08/12/2002	PTO Delay (PTO):	508
Issue Date of Patent:	09/11/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	323
Post-Issue Petitions:	0	Total PTA (days):	206
PTO Delay Adjustment:	21		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	03/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	15		
84.5	08/22/2007	PTA 36 MONTHS	77		
84	09/11/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	15		72
83	08/13/2007	EXPORT TO FINAL DATA CAPTURE			
82	08/10/2007	DISPATCH TO FDC			
81	08/10/2007	TC RETURN TO PUBS			
80	08/07/2007	MAIL-PETITION DECISION - DISMISSED			
79	04/25/2007	PETITION ENTERED			
78	08/07/2007	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
78	08/07/2007	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
77	07/31/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		104	
77	07/31/2007	ADJUSTMENT OF PTA CALCULATION BY PTO			
76	07/31/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	110		
76	07/31/2007	ADJUSTMENT OF PTA CALCULATION BY PTO			
75	04/25/2007	MISCELLANEOUS INCOMING LETTER		120	
74	04/25/2007	PUBS CASE REMAND TO TC			
73	05/11/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
72	04/27/2007	ISSUE FEE PAYMENT VERIFIED			
71	04/25/2007	PETITION ENTERED			
70	04/27/2007	ISSUE FEE PAYMENT RECEIVED			
69	04/04/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
68	03/28/2007	EXPORT TO INITIAL DATA CAPTURE			

67	03/20/2007	MAIL NOTICE OF ALLOWANCE			
66	03/19/2007	ISSUE REVISION COMPLETED			
65	03/19/2007	DOCUMENT VERIFICATION			
64	03/19/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	03/16/2007	NOTICE OF ALLOWABILITY			
62	12/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/18/2006	REFERENCE CAPTURE ON IDS			
60	12/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	01/30/2007	DATE FORWARDED TO EXAMINER			
58	12/18/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	01/30/2007	DATE FORWARDED TO EXAMINER			
56	12/18/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	01/30/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	12/18/2006	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
53	12/18/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	12/08/2006	FINISHED INITIAL DATA CAPTURE			
51	11/07/2006	CORRESPONDENCE ADDRESS CHANGE			
50	11/07/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
49	10/12/2006	PUBS CASE REMAND TO TC			
48	09/29/2006	SEQUENCE FORWARDED TO PUBS ON TAPE			
47	09/22/2006	EXPORT TO INITIAL DATA CAPTURE			
46	09/19/2006	MAIL NOTICE OF ALLOWANCE			
45	09/18/2006	ISSUE REVISION COMPLETED			
44	09/18/2006	DOCUMENT VERIFICATION			
43	09/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	09/15/2006	NOTICE OF ALLOWABILITY			
41	07/07/2006	DATE FORWARDED TO EXAMINER			
40	06/23/2006	RESPONSE AFTER EX PARTE QUAYLE ACTION			
39	06/28/2006	MISCELLANEOUS INCOMING LETTER			
38	06/29/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO			

		DATABASE			
37	04/25/2006	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
36	04/24/2006	EX PARTE QUAYLE ACTION			
35	08/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	02/13/2006	DATE FORWARDED TO EXAMINER			
33	01/30/2006	RESPONSE AFTER NON-FINAL ACTION		110	29
32	02/01/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
31	12/30/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
30	10/24/2005	DATE FORWARDED TO EXAMINER			
29.1	10/12/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
29	10/12/2005	RESPONSE AFTER NON-FINAL ACTION			
28	10/20/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
27	08/19/2005	REFERENCE CAPTURE ON IDS			
26	08/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/14/2005	MAIL NON-FINAL REJECTION			
24	07/11/2005	NON-FINAL REJECTION			
23	05/11/2005	DATE FORWARDED TO EXAMINER			
22	05/05/2005	RESPONSE TO ELECTION / RESTRICTION FILED		93	18
21	04/18/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
20	02/03/2005	CORRESPONDENCE ADDRESS CHANGE			
19	02/03/2005	DATE FORWARDED TO EXAMINER			
18.1	02/01/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
18	02/01/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
17	02/01/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	12/01/2004	MAIL RESTRICTION REQUIREMENT	416		-1
15	11/29/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
14	08/27/2004	MISCELLANEOUS INCOMING LETTER			
13	04/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

11	08/28/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	08/12/2002	PRELIMINARY AMENDMENT			
9	12/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/28/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	10/23/2002	APPLICATION DISPATCHED FROM OIPE			
5	10/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	10/09/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	08/12/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	09/03/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
1	08/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Larry Nixon
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

MAILED

FEB 28 2007

Technology Center 2100

In re Application of:
Attwater, et al.
Application No. 10/203,823
Filed: August 14, 2002
For: Secure Services

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 25, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Finality of the rejection mailed July 19, 2006.

On filed July 25, 2006, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed July 19, 2006. In the petition, applicant's counsel alleged that the rejection of claims was introduced for the very first time on unamended claims; thus rendering the Final Office action premature.

A review of the amendment filed April 19, 2006, indicates that the amendment does not effect the scope of the claims and therefore would not justify a new grounds of rejection, additionally no new references were used in the new grounds of rejection from an IDS filed with a fee and a certificate. Therefore the finality of the July 19th, 2006 office action is improper and hereby withdrawn.

Accordingly, the petition is **Granted.**

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612.

James Dywer
Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

COPY MAILED
MAY 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Sylvie Lombardi	:	DECISION ON REQUEST
Application No. 10/203,840	:	TO WITHDRAW FROM
Filed: November 15, 2002	:	RECORD
Attorney Docket No. A0008/7005	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 21, 2005.

The request is **NOT APPROVED**.

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, that the application has been transferred to another counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

There is an Office action mailed April 26, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: David W. Laub
Heller Ehrman, LLP
1717 Rhode Island Avenue, NW
Washington, DC 20036

BHJ/CEL/NH

02 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

02 MAY 2003

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

04th/Dec/
Docketed
Due 7-02-03

Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

In re Application of	:	DECISION ON
Union Biometrica, Inc.	:	
Application No.: 10/203,841	:	
PCT No.: PCT/US00/35543	:	PETITION UNDER
Int. Filing Date: 29 December 2000	:	
Priority Date: 29 December 1999	:	37 CFR 1.137(b)
Attorney's Docket No.: 2004229-0045	:	
For: High Viscosity Sheath Reagent for Flow	:	
Cytometry	:	

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 12 August 2002.

BACKGROUND

On 29 December 2000, this international application was filed, claiming an earliest priority date of 29 December 1999.

A Demand electing the United States was filed in this international application on 30 July 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 29 June 2002.

On 12 August 2002, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

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

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

Applicant submitted a composite declaration comprising of two sets of declarations since two separately executed signature pages have been submitted each signed by one inventor out of the two. The composite declaration is defective because 37 CFR 1.497(a) and (b) requires that each declaration must be complete and identify each inventor. In this case only one set is complete because it comprises of the pages 3 of the declaration. The second set of the executed declaration is incomplete because it only contains the signature page.

DECISION

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

Accordingly, the application does not meet the requirements under 35 U.S.C. 371 for entry into the national stage in the US. Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAY SHARPE LLP
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND, OH 44115-1843

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Application of :
Vaslin et al. :
Application No. 10/203,853 :
Filed: November 4, 2002 :
Attorney Docket No. DANI 2 00005 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

It is noted that an amendment was included with the petition filed on November 10, 2008. However, the amendment is considered non-responsive since the amendment does not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2).

The Power of Attorney filed November 10, 2008 is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SCOTT MCCOLLISTER
FAY SHARPE FAGAN MINNICH AND MCKEE LLP
1100 SUPERIOR AVE FLOOR SEVENTH
CLEVELAND, OH 44114

Enclosure: Advisory Action
Notice of Acceptance of Power of Attorney

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/203,853	Applicant(s) VASLIN ET AL.	
	Examiner BLESSING M. FUBARA	Art Unit 1618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *10-13,15 and 18-22*.
   Claim(s) withdrawn from consideration: *14,16 and 17*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

Continuation of 3. NOTE: The amendment will not be entered because amending the claims to require the biopolymer powder in aqueous media to be free of additives requires further consideration and search. Applicant's arguments do not also place the claims in condition for allowance as described in the following response to the arguments. Applicant argues that Cassanelli teaches that at least 70% of biopolymer particles have a size in the range of 75-212 microns does not represent 75% of particles having diameter within the size range of 100-110 microns where at least 75% by weight of the particles fall within that particle size range and that Cassanelli's teachings would not lead the ordinary skilled artisan to specify mean diameter. This is not persuasive because, the particle size of Cassanelli fall within the particle size recited in the claims. The teaching of particles does not lead one away from mean diameter. The general concept of diameter and size relates to the size. Applicant statement that "just because the average diameter of 70% of the particles would be within the particle size disclosed does not mean that the diameter of the particles would be within the particle size" appears to be recognition by the applicant that the recited diameter is within the disclosed particle size. Applicant's statement that the use of narrow particle size range controls dispersion and promotes hydration could also apply to the disclosed particle size range that is also considered narrow. While the claims are directed to polymer compositions and not to method of restricting lump formation, it is noted that applicant has not provided factual showing that lump formation cannot be restricted in the prior art. Therefore, the traversal of the rejections does not overcome the rejection. Applicant also argues that Wong achieves the goal of forming a fast hydrating food composition by using the three component mixture of xanthan gum, surfactant and chelating salt and that one of ordinary skill in the art would not be motivated to remove the additive surfactant because additives are excluded in the claims. This is not persuasive because this line of argument is directed to the proposed amendment after final that has not entered. /BF/ .

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/203,853	11/04/2002	Sophie Vaslin	RN00018

CONFIRMATION NO. 2593

POA ACCEPTANCE LETTER

27885
Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

OC000000033603098

Date Mailed: 12/12/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/10/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/203,853	11/04/2002	Sophie Vaslin	RN00018

CONFIRMATION NO. 2593

POWER OF ATTORNEY NOTICE

OC000000033603072

Kevin McVeigh
Intellectual Property Department
Rhodia Inc
259 Prospect Plains Road CN 7500
Cranbury, NJ 08512-7500

Date Mailed: 12/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/10/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

#4

1 4 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frishauf, Holtz, Goodman & Chick
767 Third Avenue
25th Floor
New York, New York 10017-2023

In re Application of	:	
SYNDER et al.	:	
U.S. Application No.: 10/203,862	:	DECISION ON PETITION
PCT No.: PCT/GB01/00480	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 February 2001	:	
Priority Date: 15 February 2000	:	
Attorney Docket No.: 02462/LH/DH	:	
For: SEARCHING STATION ACCESSED BY SELECTION TERMINALS	:	

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed 27 February 2003 to accept the application without the signature of joint-inventor, Martin Porter. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 08 February 2001, applicants filed international application PCT/GB01/00480 which claimed a priority date of 03 May 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 15 August 2002.

On 14 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 27 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 27 February 2003, applicants filed a Petition under 37 CFR 1.47(a) and a petition for a three-month extension of time.

DISCUSSION

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

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

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Martin Porter. Petitioner states that, "Mr. Porter was first supplied with a copy of the application papers in November 2002." The petition fails to state what application papers (specification, claims, and drawings) were sent to the nonsigning inventor. Additionally, it is unclear if the petitioner (Douglas Holtz) has first hand

knowledge that a complete copy of the application papers were sent to the nonsigning inventor. As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Martin Porter, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

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

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

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

10 JUN 2003

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frishauf, Holtz, Goodman & Chick
767 Third Avenue
25th Floor
New York, New York 10017-2023

In re Application of	:	
SYNDER et al.	:	
U.S. Application No.: 10/203,862	:	DECISION ON PETITION
PCT No.: PCT/GB01/00480	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 February 2001	:	
Priority Date: 15 February 2000	:	
Attorney Docket No.: 02462/LH/DH	:	
For: SEARCHING STATION ACCESSED BY SELECTION TERMINALS	:	

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 30 May 2003. In a decision dated 14 May 2003, the "PETITION UNDER 37 CFR 1.47(a)" filed 27 February 2003 was dismissed because applicant did not provide adequate proof that the joint inventor, Martin Porter, refused to execute the application or could not be reached after diligent effort.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. The 14 May 2003 decision indicated that petitioner has satisfied items (1), (3) and (4) above.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Martin Porter. The steps taken are sufficient to show that the nonsigning inventor, Martin Porter, has refused to execute the application.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 08 February 2001 under 35 U.S.C. 363, and a date of **27 February 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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

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

10 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Martin Porter) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.497. The international application number is PCT/GB01/00480 and was filed on 08 February 2001 in the name of John Synder and Martin Porter for the invention entitled SEARCHING STATION ACCESSED BY SELECTION TERMINALS. The national stage application number is 10/203,862 and has a 35 U.S.C. 371 date of 27 February 2003.

1 0 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Martin Porter
44a Park Lane
Norwich NR2 3EF
United Kingdom

In re Application of
SYNDER et al.
U.S. Application No.: 10/203,862
PCT No.: PCT/GB01/00480
Int. Filing Date: 08 February 2001
Priority Date: 15 Febraury 2000
Attorney Docket No.: 02462/LH/DH
For: SEARCHING STATION ACCESSED BY SELECTION TERMINALS

Dear Mr. Porter:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Anthony Smith

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

Counsel of Record:
Frishauf, Holtz, Goodman & Chick
767 Third Avenue
25th Floor
New York, New York 10017-2023

14 JAN 2004

#6

UNITED STATES 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 H. Dippert
REED SMITH
29th Floor
599 Lexington Avenue
New York, NY 10022-7650

In re Application of	:	
DULBERG, Adi *et al*	:	
U.S. Application No.: 10/203,865	:	
PCT No.: PCT/IL01/00144	:	
Int. Filing Date: 14 February 2001	:	**DECISION**
Priority Date: 14 February 2000	:	
Attorney's Docket No.: 218/02834	:	
For: SUPPORT NETWORK	:	

This is a decision on the request under 37 C.F.R. 1.497(d) filed via facsimile on 12 December 2003.

BACKGROUND

On 13 August 2003, applicants filed national stage papers which were accompanied by, *inter alia*, a declaration executed by five of the six listed co-inventors.

On 19 September 2002, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating that the application has a 35 U.S.C. 371 date of 13 August 2003.

On 17 November 2003, a communication was mailed vacating the Form PCT/DO/EO/903 mailed 19 September 2002 because the declaration was not in compliance with 37 CFR 1.497(a) and (b).

On 14 July 2003, applicants filed the instant request which was accompanied by, *inter alia*, the $130.00 fee; a document titled "Statement of Yoram Bar-Zeev Under 37 C.F.R. 1.497"; a document titled "Assignee's Consent to Correction of Inventorship"; a "Statement Under 37 CFR 3.73(b)"; an executed declaration signed by five joint inventors; a "Request for Corrected Filing Receipt and Corrected Notification of Acceptance" and an assignment.

01/16/2004 SNAJARRO 00000002 033419 10203865

01 FC:1460 130.00 DA

DISCUSSION

Applicants request to remove Yoram Bar-Zeev as a joint inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international

application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being . . . deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(l); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Mr. Yoram Bar-Zeev who says that "my inclusion as an inventor in international application no. PCT/IL01/00144 and in its national phase (USSN 10/203,865) was made in error." The statement declares that the error "occurred without any deceptive intent on my part." This satisfies item (1) above.

The processing fee of $130.00 has been charged as authorized to Deposit Account No. 03-3419. This satisfies item (2) above.

Applicants also submitted a document titled "Assignee's Consent to Correction of Inventorship" signed by Alex Toker as Vice President of Research and Development of NextNine Ltd. consenting to the correction of inventorship in the above-identified application. Mr. Toker also attests that he "is empowered to act on behalf of the actual assignee" satisfying the requirements § 324 MPEP. A "Statement Under 37 CFR 3.73(b)" and a copy of an assignment was also included. Item (3) is satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to remove Yoram Bar-Zeev as a joint inventor in the above-captioned application is **GRANTED**.

Applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) with the instant petition. Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 February

2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 December 2003.

This application is being forwarded to the DO/EO/US to mail a corrected Notification of Acceptance, and then mailing a corrected filing receipt.

The filing receipt will indicate the folowing five joint inventors: Adi Dulberg; Eldad Maniv; Gil Levonai; Oren Minzer and Ronny Elkayam, and the following domestic priority data: This application is a 371 of PCT/IL/00144 02/14/2001 which claims the benefit of 60/182,211 02/14/2000 and claims the benefit of 60/264,729 01/30/2001 and claims the benefit of 60/264,730 01/30/2001 and is a CIP of 09/654,925 09/05/2000.

The application will then be forwarded to the Technology Center for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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)
6988676	2006-01-24	10203867	2002-08-14	6160-4-US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Philip A Steiner/	Date (YYYY-MM-DD)	2010-07-22
Name	Philip A Steiner	Registration Number	47967

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. 6988676
Issue Date: January 24,2006
Application No. 10203867
Filed: August 14,2002
Attorney Docket No. 6160-4-US

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

This is a decision on the electronic petition, filed July 22,2010 ,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 July 22,2010 .
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.

14 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

In re Application of WALSHE et al. Serial No.: 10/203,869 PCT No.: PCT/EP98/04931 Int. Filing Date: 23 July 1998 Priority Date: 05 August 1997 Attorney's Docket No.: PC9452A For: IMPROVED PROCESS FOR ANTIPARASITIC AGENT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 August 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $890 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors is required. The surcharge for filing the oath or declaration after the thirty month period has been paid.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

COPY MAILED

APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Yong Kin Ong	:	
Application No. 10/203,870	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 07082.0004U1	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2876 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

PHILIP H ALBERT
TOWNSEND & TOWNSEND & CREW
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-3834

COPY MAILED
APR 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Greg Goodman et al	:	
Application No. 10/203,873	:	ON PETITION
Filed: August 13, 2002	:	
Attorney Docket No. 019132-000210US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 15, 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 October 16, 2005.

The instant 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 filed December 13, 2005; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the non-final Office action of July 15, 2005 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.

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 $795 extension of time submitted with the petition on January 24, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This matter will be referred to Technology Center AU 2191.

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: RICK A. TOERING
PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
McLEAN, VA 22102-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 3 1 2008

In re Application of

PALOSUO, Timo et al.
Application No. 10/203,883
Filed: November 25, 2002
Attorney Docket No. **227-148**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 29, 2008.

The request is **NOT APPROVED**.

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

The 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, (client has revoked power attorney and case was transferred to another attorney), does not meet any the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DODDS & ASSOCIATES**
1707 N STREET, N.W.
WASHINGTON, D.C. 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

#4

0 2 JUN 2003

Rolf Fasth
Fasth Law Offices
189 Curtis Drive
Longview, WA 98632-5374

In re Application of ALLAN HAGSTROM Application No.: 10/203,913 PCT No.: PCT/SE01/00276 Int. Filing Date: 12 February 2001 Priority Date: 14 February 2000 Attorney's Docket No.: 122.877USN For: MACHINE TOOL AND METHOD FOR MACHINING	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on petition under 37 CFR 1.47(b), filed 08 January 2003 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Allan Hagstrom. Petitioner requests a two month extension of time, which is granted.

BACKGROUND

On 12 February 2001, applicant filed international application No. PCT/SE01/00276 which claimed a priority date of 14 February 2000, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 16 August 2001.

On 13 September 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was to expire 30 months from the priority date, at midnight 14 August 2002.

On 14 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 02 October 2002 the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor and surcharge for filing the oath or declaration after the thirty month period must be furnished within two months from the mail date of the notice or the application would be

abandoned. Extensions of time were available.

On 08 January 2003, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of Facts of Erik Larsson, regarding inventor Hagstrom's refusal to sign the application, combined declaration and power of attorney under 37 CFR 1.47(b) executed by Thony Molander, President of AB Motala Verkstad, on behalf of the non-signing inventor, a legal memorandum regarding the employer's right to inventions made by its employees under Swedish law, a copy of an Assignment from Allan Hagstrom to AB Motala Verkstad, executed by Thony Molander, President of AB Motala Verkstad for Allan Hagstrom, and an Assignment from AB Motala Verkstad to QUINTAX Machine Tools AB, executed by Mr. Molander.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied items (1) and (3) with payment of the requisite petition fee and a statement of the last known address of the inventor.

With regard to item (2), petitioner has provided adequate proof that the sole inventor refuses to sign the application with a first hand statement of the inventor's refusal. Specifically, Mr. Larsson's affidavit states that on 03 December 2002, he gave a copy of the patent application, assignment and combined declaration and power of attorney forms to Mr. Hagstrom. Mr. Larsson further states that he called Mr. Hagstrom at his home on 09 December 2002 at 10:30 a.m. and that Mr. Hagstrom told him "he did not want to sign the required declaration and assignment documents because AB Motala Verkstad had not treated him well in the past." (Larsson's affidavit, p.3) This is sufficient evidence of the inventor's refusal to sign the application.

As for item (4), petitioner provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Allan Hagstrom by Thony Molander, President for applicant AB Motala Verkstad. The declaration, however, does not fulfill the requirements of 37 CFR 1.497(a)(3) in that the declaration fails to identify the country of citizenship and the mailing address of the inventor. Item (4) is not satisfied and a new declaration identifying the inventor, his country of citizenship, residence and mailing address should be provided.

Regarding item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office,
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United

States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Here, petitioner is attempting to prove that the 37 CFR 1.47(b) applicant (Motala) has sufficient proprietary interest in the subject matter to justify filing the application. The assignment attached to the petition is defective to prove this interest because it is executed by the President of Motala for Allan Hagstrom; it is not executed by Hagstrom himself. Petitioner has not established by a statement of facts by someone with first hand knowledge that the employee (non-signing inventor) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, Motala) all inventions made during employment and that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Where there is no written agreement to assign or the invention has not been assigned, petitioner must demonstrate a proprietary interest by an appropriate legal memorandum. Petitioner has attempted to provide such memorandum but it is found to be deficient. The memorandum fails to indicate a court of competent jurisdiction would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b). The facts in support of this conclusion have not been made of record by an affidavit or declaration of the person having first hand knowledge of the same. The memorandum provided here does not indicate that it was prepared by an attorney at law familiar with the jurisdiction involved. The memorandum makes the general statement that under Swedish law, the employer has a right to inventions made by its employees. But the memorandum is not based on the declaration of a person having firsthand knowledge of Hagstrom's employment at the time of the invention and that the invention was part of his work as a technical manager for the company. The memorandum concludes that the Company has a proprietary interest in the subject matter of the patent application and would be awarded the title to the invention under Swedish law without a sufficient factual basis. Moreover, a copy of the statute relied upon to demonstrate a proprietary interest has not been made of record and is required. Item (5) is not satisfied.

As for Item (6), Petitioner states that the present petition is necessary "to preserve the rights of the party and to prevent irreparable damage." Thus, item (6) is satisfied.

Accordingly, items (4) and (5) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional

petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Tel: 703-306-5467
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 SEP 2003

FASTH LAW OFFICES
629 E. BOCA RATON ROAD
PHOENIX, AZ 85022

In re Application of ALLAN HAGSTRÖM Application No.: 10/203,913 PCT No.: PCT/SE01/00276 Int. Filing Date: 12 February 2001 Priority Date: 14 February 2000 Attorney's Docket No.: 122.877USN For: MACHINE TOOL AND METHOD FOR MACHINING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on renewed petition under 37 CFR 1.47(b), filed 14 July 2003 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Allan Hagström.

BACKGROUND

On 02 October 2002 the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor and surcharge for filing the oath or declaration after the thirty month period must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 08 January 2003, petitioner filed a petition requesting that the above-identified application be accepted without the signature of Allan Hagström, under the provisions of 37 CFR 1.47(b). On 02 June 2003, a decision dismissing the petition was mailed to petitioner.

On 14 July 2003, petitioner filed the instant renewed petition under 37 CFR 1.47(b) along with a declaration executed by the 37 CFR 1.47(b) applicant, a statement of facts signed by Eric Larsson and a legal memorandum to establish the proprietary interest of AB Motala Verkstad.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has previously satisfied items (1), (2), (3) and (6).

With regard to item (4), petitioner provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Allan Hagström by Thony Molander, President for applicant AB Motala Verkstad. The declaration identifies the country of citizenship, residence and the mailing address of the non-signing inventor. Item (4) is now satisfied.

Regarding item (5), petitioner attempts to prove that the 37 CFR 1.47(b) applicant (Motala) has sufficient proprietary interest in the subject matter to justify filing the application. Petitioner has established by a statement of facts by Eric Larsson, who has first hand knowledge that the employee (non-signing inventor Hagström) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, Motala) all inventions made during employment and that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Petitioner has demonstrated the proprietary interest AB Motala Verkstad by an appropriate legal memorandum establishing that a Swedish court of competent jurisdiction would by the weight of authority award title of the invention to the 37 CFR 1.47(b) applicant. The legal memorandum was prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of the statute relied on to demonstrate a proprietary interest was also made of record. Item (5) is now satisfied.

Accordingly, the petition under 37 CFR 1.47(b) is granted.

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 19 December 2000, and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 07 May 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 July 2003**.

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Tel: 703-306-5467
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 SEP 2003

ALLAN HAGSTRÖM
OSTERMALMSGATAN 82
591 60 MOTALA
SWEDEN

In re Application of ALLAN HAGSTRÖM Application No.: 10/203,913 PCT No.: PCT/SE01/00276 Int. Filing Date: 12 February 2001 Priority Date: 14 February 2000 Attorney's Docket No.: 122.877USN For: MACHINE TOOL AND METHOD FOR MACHINING	DECISION ON PETITION UNDER 37 CFR 1.47(b)

Dear Mr. Hagström:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

FASTH LAW OFFICES
629 E. BOCA RATON ROAD
PHOENIX, AZ 85022

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Allan Hagström) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/SE01/00276 and was filed on 12 February 2001 in the name of Allan Hagström for the invention entitled Machine Tool and Method for Machining. The national stage application is assigned number 10/203,913 and has a 35 U.S.C. 371(c) date of 14 July 2003.

10/203930

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 4, 2005

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6,888,678

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:

It appears that amendments to claims 2-6, 8-11, which were submitted 3/29/04, were not entered. All of these claims depend from amended indep. claims 1-7. Office mistake will be corrected.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2872
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

24 JAN 2005

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Benjamin J. Hauptman
Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

In re Application of	:	
HEIKAUS et al.	:	
Application No.: 10/203,952	:	DECISION ON PETITION
PCT No.: PCT/EP01/00901	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 27 January 2001	:	
Priority Date: 18 February 2000	:	
Attorney Docket No.: 5752-2	:	
For: STRETCH FILM AND METHOD FOR PRODUCING A STRETCH FILM		

The petition to revive under 37 CFR 1.137(b) filed 21 December 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#4

29 APR 2003

Ronald E. Greigg
Greigg & Greigg, P.L.L.C.
1423 Powhatan Street
Unit One
Alexandria, VA 22314

In re Application of POTZ et al	:	
U.S. Application No.: 10/203,978	:	
Int. Application No.: PCT/EP01/13921	:	
Int. Filing Date: 28 November 2001	:	DECISION
Priority Date: 16 December 2000	:	
Attorney Docket No.: R.39398	:	
For: FUEL INJECTION VALVE FOR INTERNAL	:	
COMBUSTION ENGINES	:	

This is in response to the communication filed 28 October 2002, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 November 2001, applicant filed international application PCT/EP01/13921, which claimed priority of an earlier Germany application filed 16 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The twenty-month period for paying the basic national fee in the United States expired at midnight on 16 August 2002.

On 16 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 October 2002, applicant filed the present request for status under 37 CFR 1.42, including an executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Applicant is advised that the submission of a declaration executed by the sole heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Applicant is further advised that, effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

CONCLUSION

For the reasons above, the papers filed 28 October 2002 are ACCEPTED under 37 CFR 1.42.

The application has an International Filing Date of 28 November 2001 and a date under 35 U.S.C. 371(c) of 28 October 2002.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Joachim Klink	:	
Application No. 10/203,980	:	DECISION ON PETITION
Filed: August 15, 2002	:	TO WITHDRAW
Attorney Docket No. 449122038700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 3, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN SPIVAK
BELL, BOYD & LLOYD
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

UNITED STATES 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

NOV 19 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Joachim Klink	:	
Application No. 10/203,980	:	DECISION ON PETITION
Filed: August 15, 2002	:	TO WITHDRAW
Attorney Docket No. 449122038700	:	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 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 3, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN SPIVAK
BELL, BOYD & LLOYD
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

15 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Evans
Ladas & Parry
26 West 61st Street
New York, NY 10023

In re Application of DU TOIT, Pieter Wouter Application No.: 10/204,010 PCT No.: PCT/ZA01/00016 Int. Filing Date: 14 February 2001 Priority Date: 14 February 2000 Docket No.: U 014163-6 For: MOULDING OF MOULDABLE MATERIALS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 15 August 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

E.M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

gm

Mailed: 6-13-07

In re Application of	:	DECISION
De Toit	:	DISMISSING
Serial No. 10/204,010	:	PETITION
Filed: October 31, 2002	:	
For: MOULDING OF MOULDABLE MATERIALS	:	

This is a decision on the April 18, 2007, "Petition under 37 CFR 1.181" requesting a new action be sent as the action of March 13, 2007 is alleged to be incomplete. The petition also argues that the action relies upon a reference which does not qualify as prior art.

On March 13, 2007, a final rejection was mailed which included rejections of the claims under 35 USC 103(a) as being obvious over Wobbe (WO 00/37233) in view of various other references not at issue here. A request for reconsideration was filed on March 22, 2007 and denied in the advisory action of April 12, 2007.

The instant petition was then timely filed on April 18, 2007 and is before the Director of Technology Center 1700 for consideration.

The petition is **DISMISSED** for the reasons below.

DECISION

The petition argues that the action of March 13, 2007 was incomplete, on the grounds that the action states "note the translation of WO 00/37233 attached hereto" whereas in fact no such translation was attached to the action. The identical language is present in the previous non-final action of September 7, 2006. The September 7, 2006 action included a PTO-892, Notice of References Cited, which lists a translation of WO 00/37233 under the Non-Patent Documents section. Further, the IFW record includes a copy of the translation also dated September 7, 2006. It is therefore apparent from the record that a copy of the translation of WO 00/37233 was provided to applicant along with the September 7, 2006 action. While the March 13, 2007 action includes an editorial error ("attached hereto" should have read "previously provided") applicant has nonetheless apparently been provided with the necessary translation, such that applicant's ability to respond to the March 13, 2007 action was in no way impaired. It is noted that applicant did not contend the translation was not received after receiving the September 7, 2006 action. The March 13, 2007 action was thus complete.

Applicant's remarks concerning availability of WO 00/37233 as prior art have been noted. However, as stated in MPEP 1201, "the line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed." The MPEP (1201) explains:

> The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. *Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits*, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).
>
> The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is matter appealable to the Board

Whether or not a reference is prior art clearly relates to an issue of patentability and thus will not be addressed here, the issue being squarely within the purview of the Board.

Therefore the instant petition is **DISMISSED.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

gm

Mailed: 10-5-07

In re Application of	:	DECISION
De Toit	:	ON
Serial No. 10/204,010	:	PETITION
Filed: October 31, 2002	:	
For: MOULDING OF MOULDABLE MATERIALS	:	

This is a decision on the September 4, 2007, "Request for New Action and Petition therefor under 37 CFR 1.181" requesting a new action be sent as the action of March 13, 2007 is alleged to be incomplete.

On March 13, 2007, a final rejection was mailed which included rejections of the claims under 35 USC 103(a) as being obvious over Wobbe (WO 00/37233) in view of various other references not at issue here. A request for reconsideration was filed on March 22, 2007 and denied in the advisory action of April 12, 2007. A petition for new action was then filed on April 18, 2007, and was dismissed in a decision dated June 13, 2007.

The instant petition was then filed on September 4, 2007 and is before the Director of Technology Center 1700 for consideration.

The petition is **DISMISSED** as untimely and alternatively **DENIED** on the merits for the reasons below.

DECISION

The April 18th petition argued that the March 13, 2007 action was incomplete for omitting a translation, and was denied based on the fact that the translation had already been provided in an earlier action. The instant petition now argues that the March 13, 2007 action was incomplete for a different reason, namely that the action lacked a clear explanation as to why the priority document does not support the claimed invention.

37 CFR 1.181(f) states:

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. <u>Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely</u>, except as otherwise provided. This two-month period is not extendable.

The instant petition was filed nearly six months after the March 13, 2007, and is therefore untimely under 37 CFR 1.181(f). Applicant had a clear opportunity to include the present arguments in the petition of April 18 and chose not to do so.

Therefore the instant petition is **DISMISSED** as untimely.

Alternatively, even if considered timely the petition lacks merit. Having been notified that the examiner did not consider the claims to be supported by the priority document, applicant could have responded by simply pointing out where the priority document did provide such support. Applicant chose not to do so. The examiner's brevity in raising the issue did not adversely impact the ability of the applicant to advance prosecution on the merits of the application.

As the action of March 22, 2007 set forth the examiner's reasons for rejection with sufficient clarity to allow a complete response by applicant thereto had applicant so chosen, the instant petition is **DENIED** on the merits.

Jacqueline M. Stone

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

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

UNITED STATES 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 04-05

HAYES, SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON AZ 85701

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Yoon-Sik Choi	:	
Application No. 10/204,013	:	ON PETITION
Filed: 15 August, 2002	:	
Attorney Docket No. JO 020724	:	

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

The petition is **GRANTED**.

---

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

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

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

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

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

This application became abandoned on 6 June, 2004, for failure to submit a timely reply to the final Office action mailed on 5 March, 2004, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 3 November, 2004.

The present petition is accompanied by a Request for Continued Examination and a reply as the required submission under 37 CFR 1.114.

The application is being referred to Technology Center Art Unit 2833 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Chunmin Pu et al.	:	DECISION
Application No. 10/204,017	:	ON PETITION
Filed: October 29, 2002	:	37 CFR 1.137(b)
Attorney Docket No. 7248-76 MIS / 53-870 MIS:ah	:	

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

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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).

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Stephen K. Cronin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being forwarded to the Office of Publications.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

1 9 MAR 2003

#2

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Merck & Company
Patent Department, RY60-30
P O Box 2000
126 East Lincoln Avenue
Rahway NJ 07065-0970

In re Application of CULLY et al. Application No.: 10/204,029 PCT No.: PCT/US01/06096 Int. Filing Date: 26 February 2001 Priority Date: 02 March 2000 Attorney Docket No.: 20615P For: DNA MOLECULES ENCODING A GLUTAMATE-GATED CHLORIDE CHANNEL IN DROSOPHILA MELANOGASTER	DECISION ON SUBMISSION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 15 August 2002, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371. The basic national fee and an executed declaration accompanied the transmittal.

The declaration as filed is executed by three of the four named inventors identified in the published international application. The declaration is not signed by Birgit Hirschberg. The fourth signatory to the declaration identified as an inventive entity is Birgit Priest; however, Ms. Priest is not named in the published international application.

The declaration as filed is not in compliance with 37 CFR 1.66 or 1.68 as it identifies a legal entity not identified on the international application and is unacceptable as filed. The declaration is signed by Birgit *Priest*, who is not listed as an inventor on the international application publication. The declaration is not signed by Birgit Hirschberg, who is listed as an inventor on the publication. The declaration does not list all the inventors named on the publication in one declaration. Furthermore, no explanation is given with regard to the inclusion of Ms. Priest signature as an inventor and the lack of Ms. Hirschberg's signature on the declaration.

If Ms. Priest and Ms. Hirschberg are different persons, a petition under 37 CFR 1.497(d) to correct inventorship is required. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part: if the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) A statement from each person being added as an inventor . . . that any error

in inventorship in the international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(I); and (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

If Ms. Hirschberg has changed her last name to *Priest*, under MPEP Section 605.04(c), she must file a petition under 37 CFR 1.182 including "an affidavit signed with both names setting forth the procedure whereby the change of name was effective" or a certified copy of the court order.

CONCLUSION

A proper reply is a new declaration, in compliance with 37 CFR 1.497(a)-(b), and, as appropriate a proper petition under 37 CFR 1.497(d) or 1.182.

Applicant must file a response within TWO (2) months of the mail date of this decision. Extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

2 4 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

#4

Merck & Company
Patent Department, RY60-30
P O Box 2000
126 East Lincoln Avenue
Rahway NJ 07065-0907

In re Application of	:	
CULLY et al.	:	
Application No.: 10/204,029	:	DECISION ON PETITION
PCT No.: PCT/US01/06096	:	
Int. Filing Date: 26 February 2001	:	UNDER 37 CFR 1.182
Priority Date: 02 March 2000	:	
Attorney Docket No.: 20615P	:	
For: DNA MOLECULES ENCODING LIGAND-GATED ION CHANNELS FROM DROSOPHILA MELANOGASTER	:	

This is a decision on applicant's COMMUNICATION filed in the United States Patent and Trademark Office (USPTO) on 30 May 2003 and treated as a petition under 37 CFR 1.182. The petition fee of $130 will be charged to applicant's deposit account per their authorization.

BACKGROUND

On 15 August 2002, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371. The basic national fee and an executed declaration accompanied the transmittal. The declaration was executed by three of the four named inventors identified in the published international application. The declaration was not signed by Birgit Hirschberg but was executed by a different inventive entity, identified as Birgit Priest. Applicant was advised to submit a petition under 37 CFR 1.497(d) to correct inventorship or petition under 37 CFR 1.182 indicating the change in the inventor's name.

On 30 May 2003, applicant filed the instant communication indicating that joint inventor Birgit Hirschberg married and changed her family name to Birgit Priest subsequent to the filing of the international application, along with an affidavit signed by Birgit Hirshberg and Birgit Priest indicating the reason for the name change and a copy of her marriage license.

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted her signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Birgit Hirschberg and Birgit Priest along with a copy of her marriage license. Thus, the evidence is sufficient to conclude that Birgit Hirschberg changed her name by marriage to Birgit Priest.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Birgit Hirschberg to Birgit Priest is **GRANTED**.

The declaration submitted on 15 August 2002 is acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 15 August 2002.

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEON R. YANKWICH
YANKWICH & ASSOCIATES
201 BROADWAY
CAMBRIDGE MA 02139

COPY MAILED

JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of	:
Matthias Stein-Gerlach et al	:
Application No. 10/204,041	: DECISION ON PETITION
Filed: August 16, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. AXM-007.1P US	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 29, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications.

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 August 16, 2002. Intermediate PCT Application No. PCT/EP02/05420 was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/293,528, which was filed on May 29, 2001 and Application No. 60/305,898, filed July 18, 2001, for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed provisional applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. 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 the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1624 will consider the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Karen Creasy

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

24 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeremy A. Cubert
DICKSTEIN SHAPIRO MORIN
& OSHINSKY, L.L.P.
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714

In re Application of Jan HEDNER, et al. Application No.: 10/204,048 PCT No.: PCT/SE01/00315 Int. Filing Date: 14 February 2001 Priority Date: 04 February 2000 Attorney Docket No.: C2432.0048/0US0 For: METHOD OF TREATING AND DIAGNOSING SLEEP DISORDERED BREATHING AND MEANS FOR CARRYING OUT THE METHOD	DECISION ON PETITION UNDER 37 CFR 1.181

The "STATUS INQUIRY" filed 21 October 2003 is being treated as a petition under 37 C.F.R. 1.181 requesting withdrawal of the Notification of Abandonment (Form PCT/DO/EO/909) mailed 25 September 2003 and remailing of the Notification of Missing Requirements (Form PCT/DO/EO/905) issued earlier in the present application. The petition is **GRANTED** as follows:

No petition fee is necessary.

On 16 August 2002, applicants filed papers under 35 U.S.C. 371 for entry into the national stage in the United States for international application PCT/SE01/00315.

On 19 September 2002 the U.S. Designated/Elected Office (DO/EO/US) issued a Notification of Missing Requirements to inform applicants that an oath or declaration of the inventors must be submitted in order to avoid abandonment of the application in the United States. Then on 25 September 2003 a Notification of Abandonment of the application was mailed to applicants.

On 21 October 2003, applicants filed the present petition indicating that "the below

named attorney did not receive the Notice to File Missing Parts, nor the Notice of Abandonment... (because) the documents were being sent to an incorrect address (i.e. 117 Avenue of the Americas)."

A review of the application papers reveals that both Notifications mentioned above were sent to an incomplete address. The address should be 1177 Avenue of the Americas rather than 117 as typed on the notices. Accordingly, Notification of Missing Requirements of 19 September 2002 and the Notification of Abandonment of 25 September 2003 are hereby VACATED.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, that is, a) for correction of USPTO database to reflect the correspondence address as 1177 Avenue of the Americas, New York, NY 10036-2714, and b) for re-issuance of the Notification of Missing Requirements to reset the time for response.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

COPY MAILED
JAN 0 7 2005
OFFICE OF PETITIONS

In re Application of :
Tsutomu Nagai, et al. :
Application No. 10/204,050 :
Filed: August 16, 2002 :
Attorney Docket No. 2002-1075A :

ON PETITION

This is a decision on the petition, filed January 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 28, 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 3618 for further processing of the request for continued examination under 37 CFR 1.114 filed January 5, 2004.

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

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

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)
6,841,093	2005-01-11	10/204,055	2002-08-16	29137.357.00

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew T. Bailey/	Date (YYYY-MM-DD)	2009-11-04
Name	Matthew T. Bailey	Registration Number	33829

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. 6841093
Issue Date: January 11,2005
Application No. 10204055
Filed: August 16,2002
Attorney Docket No. 0808-0333P

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

This is a decision on the electronic petition, filed November 4,2009 ,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 November 4,2009 . 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

#7

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

29 AUG 2003

John P. Ward
Blakely Sokoloff Taylor & Zafmann LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1030

In re Application of MAO	:	
U.S. Application No.: 10/204,058	:	
PCT Application No.: PCT/CN00/00732	:	
Int. Filing Date: 27 December 2000	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: 42390.P9759	:	
For: A METHOD AND SYSTEM FOR	:	
CONCURRENT USE OF TWO OR MORE	:	
CLOSELY COUPLED COMMUNICATION	:	
RECOGNITION MODALITIES	:	

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. § 371 in the United States Designated/Elected Office (DO/EO/US)" filed 19 August 2003.

BACKGROUND

On 27 December 2000, applicant filed international application PCT/CN00/00732. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 27 June 2003.

On 16 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and a proper translation of the application into English must be filed.

On 19 August 2003, applicant filed the present response.

DISCUSSION

Upon review of the application file, including the arguments presented in the response, the originally filed drawings are accepted.

CONCLUSION

For the reasons above, the portion of the Notification of Missing Requirements mailed 21 May 2003 which indicated that a translation and substitute drawings must be submitted is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 December 2000, and a date under 35 U.S.C. 371(c) of 19 August 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES 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 Aug-05

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

COPY MAILED

AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith Dixon-Roche	:	
Application No. 10/204,061	:	DECISION ON PETITION
Filed: 29 October, 2002	:	
Atty Dckt No. 8830-130(177462)	:	

This is a decision in reference to the third party petition styled under 37 CFR 1.182, filed on 25 July, 2005.

The petition is dismissed.

A paper was filed on behalf of Luc Bourgois, an originally-named joint inventor who was deleted as an inventor by request under 37 CFR 1.48(b) filed on 6 January, 2005, and granted on 24 March, 2005. The paper requests that Mr. Bourgois be permitted to revoke his prior power of attorney and appoint a new power of attorney. Mr. Bourgious additionally, by way of this paper, alleges a dispute in the inventorship of this application for patent.

As Mr. Bourgois is neither a named inventor nor an assignee, he has no ownership interest in the instant application for patent, and, consequently, has no standing, to appoint a power of attorney or otherwise, with regard to this patent application. As such, he is considered a third party.

The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that

application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).[1]

Petitioner lacks standing to request that the Office recognize petitioner as a party in interest in the above-identified application. Accordingly, the third-party petition filed on 25 July, 2005, is **dismissed**.

This decision is being copied to Glenn Law, Foley & Lardner LLP, (Customer No. 22428) Suite 500, 3000 K Street, NW, Washington, DC 20007. However, no further correspondence concerning the above-identified application will be undertaken with Foley & Lardner.[2]

Petitioner's representative is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action.

The Office directs petitioner's attention to MPEP 409.03(i). While this petition does not involve a Rule 47 situation, petitioner could, in an analogous matter, seek to revolve the inventorship issue by filing his own continuing application identifying what petitioner believes to be the correct inventive entity, and, assuming allowable subject matter is found, seek to have the inventorship issue determined *inter partes*.

---

[1] Further, the Court of Appeals for the Federal Circuit (Federal Circuit) has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent").

[2] See 37 CFR 1.291(c).

Telephone inquiries related to this decision should be addressed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

The above-identified application is being referred to Technology Center Art Unit 1733 for further processing.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: GLENN LAW
FOLEY & LARDNER LLP
3000 K STREET NW
SUITE 500
WASHINGTON DC 20007

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 AUG 2003

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313-7188

In re Application of
HOČEVAR et al.
U.S. Application No.: 10/204,088
PCT Application No.: PCT/SI01/00005
Int. Filing Date: 09 February 2001
Priority Date: 16 February 2000
Attorney Docket No.: 117215-1
For: A PROCESS FOR CATALYTIC, SELECTIVE OXIDATION OF CARBON MONOXIDE IN GASEOUS MIXTURES CONTAINING EXCESS HYDROGEN, A CATALYST AND A PROCESS FOR ITS PREPARATION

: DECISION

This is in response to applicant's "Petition To Accept Corrected Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371", treated as a petition under 37 CFR 1.182, filed 06 June 2003, to disregard the declaration, assignment, Information Disclosure Statement and Preliminary Amendment enclosed with the Transmittal Letter filed on August 16, 2002 and the Supplemental Preliminary Amendment filed September 6, 2002. The correct international application number appeared on the first page of the transmittal letter filed on 16 August 2002. A petition fee of $130.00 was paid.

On 09 February 2001, applicant filed international application No. PCT/SI01/00005, which claimed a priority date of 16 February 2000 and which designated the United States. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 16 August 2002.

On 16 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The first page of the transmittal letter correctly indicated international application no. PCT/SI01/00005; however, the accompanying documents identified the incorrect international application number.

On 06 June 2003, applicant filed the instant petition requesting that the USPTO disregard the declaration, assignment, Information Disclosure Statement and Preliminary Amendment enclosed with the Transmittal Letter filed on August 16, 2002 and the Supplemental Preliminary Amendment filed September 6, 2002, which is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:06102008

DATE : September 26, 2008

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction on Patent No.: 7274714 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:
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.

__Lamonte M. Newsome _

703-308-9390 EXT. 112

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriated box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:
/Wing F. Chan/ Supervisory Patent Examiner, Art Unit 2619

UNITED STATES PATENT AND TRADEMARK OFFICE

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

E I DU PONT DE NEMOURS & COMPANY
LEGAL PATENTS
WILMINGTON, DE 19898

COPY MAILED

AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Vladimir Grushin, et al. :
Application No. 10/204,127 :
Filed: August 14, 2002 :
Attorney Docket No. CL-1501 :

ON PETITION

This is a decision on the petition, filed July 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 9, 2003.

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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 1625 for consideration of the amendment filed July 14, 2004.

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

12 MAY 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

Jill Denesvich
Lanxess Corporation
111 RIDC Park West Drive
Pittsburgh, PA 15205-9741

In re Application of	:	
EICHENAUER, et al.	:	
U.S. Application No.: 10/204,137	:	
PCT No.: PCT/EP01/01494	:	DECISION ON PETITION
Int. Filing Date: 12 February 2001	:	
Priority Date: 23 February 2000	:	UNDER 37 CFR 1.182
Attorney's Docket No.: Mo-7373/LeA 34,143	:	
For: ABS MOULDING MATERIAL WITH	:	
IMPROVED WORKABILITY AND A HIGH	:	
LUSTRE	:	

This decision is in response to applicant's petition under 37 CFR 1.182 filed 15 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2001, applicant filed international application PCT/EP01/01494, which claimed priority of an earlier application filed 23 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 August 2002.

On 16 August 2002, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371 accompanied by: payment of the U.S. Basic National Fee; an English translation of the International Application; an executed declaration of the inventors; an assignment document for recording and a First Preliminary Amendment.

On 25 September 2002, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of 16 August 2002.

On 15 March 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

Applicant is advised that as a "Notification of Missing Requirements" (PCT/DO/EO/905)

indicating that the originally filed English translation of the International Application was defective was never mailed to applicant no petition fee is required.

Regarding the present petition, a review of the application file finds that the English translation filed 16 August 2002, while it did not include the figures in question, was a complete translation of the international application. That is, all of the German text was translated into English. In addition, the missing figures do not contain any foreign text and therefore their absence from the 16 August 2002 filing does not affect the satisfaction of the 35 U.S.C. 371 requirements. As such, the 35 U.S.C. 371 requirements were fulfilled on 16 August 2002. Applicant filed an additional English translation, with the missing formulas on 14 May 2004. Applicant has presently provided a statement that the omission of the formulas from the English translation filed on 16 August 2002 was due to an inadvertent printing error. As such, it is proper to grant applicant's petition at this time. As a proper English translation was filed on 14 May 2004, complete with the previously missing formulas, the present filing of an amendment amending the specification is not necessary.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

This application is being returned to Art Unit 1711 for continued examination.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

05 APR 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

Zhibin Ren
Quarles & Brady
P.O. Box 2113
Madison, WI 53701-2113

In re Application of	:	
RANEY et al.	:	
Application No.: 10/204,142	:	DECISION ON PETITION
PCT No.: PCT/CA01/00183	:	
Int. Filing Date: 16 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney Docket No.: 411044.90048	:	
For: NOVEL SEEDS, OILS AND SEED MEALS PRODUCED FROM SINAPIS ALBA	:	

This decision is in response to applicants' "Petition under 37 CFR 1.78(a)(6) to Accept an Unintentionally Delayed Claim of Priority for the Benefit of a Prior-Filed Application" filed on 11 March 2004 and "Status Inquiry" filed 01 March 2005. This is treated as a petition under 37 CFR 1.78(a)(3) and a Request for Corrected Filing Receipt.

BACKGROUND

On 16 August 2002, applicants filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee. No declaration was filed. On 09 October 2002, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration was required.

On 06 January 2003, applicant filed a declaration in response to the Notification of Missing Requirements.

On 03 May 2000, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 06 January 2003. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 06 January 2003.

On 11 March 2004, applicants filed a petition under 37 CFR 1.78(a)(3) and a "Preliminary Amendment and Request for Corrected Filing Receipt."

On 01 March 2005, applicants filed a "Status Inquiry."

DISCUSSION

37 CFR 1.78(a)(2) applies to nonprovisional applications which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 on or after November 29, 2000. A petition under 37 CFR 1.78(a)(3) is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

In the present case, the later filed international application designating the United States was filed on 15 June 2001 and the petition was filed after the time period specified in 37 CFR 1.78(a)(2)(ii).

37 CFR 1.78(a)(3) states:

> If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121 or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:
>
> (i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
>
> (ii) The surcharge set forth in §§ 1.17(t); and
>
> (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Items (1), (2) and (3) have been satisfied. The petition is accompanied by the required reference to the prior filed application. The fee has been paid. The required statement has been made.

Additionally, applicant states that. "[i]n connection with the filing of the above-identified application, Applicants respectfully request a corrected Filing Receipt. The filing date should be corrected to reflect the U.S. National Phase filing date of August 16, 2002." The actual filing date of the present application is considered to be the international filing date, 16 February 2001. The date that will be listed in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1893.03) A review of the application file reveals that the declaration was filed with the USPTO on 06 January 2003, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into

the national stage were completed. Therefore, the "FILING DATE" on the Filing Receipt and the Notification of Acceptance will indicate a date of 06 January 2003 since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 06 January 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Applicant's Petition under 37 CFR 1.181 to accord an earlier filing date is **DISMISSED** without prejudice.

Applicants are advised that the granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the inclusion of the prior-filed application on any future Filing Receipt should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the prior-filed application noted thereon. 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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZHIBIN REN
QUARLES & BRADY
PO BOX 2113
MADISON WI 53701-2113

COPY MAILED

AUG 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 7,279,618	:	
Issue Date: October 9, 2007	:	
Application No. 10/204,142	:	ON PETITION
Filed: August 16, 2002	:	
Attorney Docket No. 411044.90048	:	

This is a decision on the petition filed August 27, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZHIBIN REN
QUARLES & BRADY
PO BOX 2113
MADISON WI 53701-2113

COPY MAILED

AUG 2 8 2008

OFFICE OF PETITIONS

In re Patent No. 7,279,618	:	
Issue Date: October 9, 2007	:	
Application No. 10/204,142	:	NOTICE
Filed: August 16, 2002	:	
Attorney Docket No. 411044.90048	:	

This is a reply to the petition filed November 27, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request to correct the name of the assignee on the front page of the above-identified patent was granted on August 5, 2008.

It is noted that the petition received August 27, 2007, was filed prior to the issuance of the above-identified patent. However, the request for Certificate of Correction to correct the name of the assignee on the front page of the above-identified patent submitted on August 27, 2007, was decided after issuance of the patent on October 9, 2007.

Therefore, the Certificate of Correction submitted on November 27, 2007, to correct the assignee data is a moot issue at this time.

The Certificate of Correct submitted on November 27, 2007, is being referred to the Certificate of Correction Branch to address the matter regarding the country of inventor John Philip Raney.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

05 SEP 2003

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David S. Resnick
Nixon Peabody
101 Federal Street
Boston, MA 02110

In re Application of SNYDER, Evan Y. et al. Application No.: 10/204,160 PCT No.: PCT/US01/08273 Int. Filing Date: 15 March 2001 Priority Date: 15 March 2000 Attorney Docket No.: 701039-051252 For: SYSTEMIC GENE DELIVERY VEHICLES FOR THE TREATMENT OF TUMORS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to "Request/Petition Under 37 C.F.R. §1.182," filed with the United States Patent and Trademark Office on 26 March 2003. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 March 2001, applicants filed international application PCT/US01/08273. On 15 October 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 15 September 2002 (16 September 2002 was a Sunday).

On 19 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 26 September 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 March 2003, applicants submitted the instant petition under 37 CFR 1.181, accompanied by an executed declaration.

DISCUSSION

Applicants have submitted a copy of a facsimile of the Notification of Missing Requirements received from the PCT Help Desk on 16 January 2003. This is not the original notification and does not evidence the date of receipt of the mailed notification. This petition is being treated as non-receipt of office action. See MPEP §711.03(c).

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have not been met.

The declarations contain non-initialed, non-dated alterations on page two. New oaths or declarations executed by inventors Aboody and Brown are required. 37 CFR 1.52(c)(1). The fee for a four month extension of time will be charged to deposit account no. 50-0850, as authorized.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

An oath or declaration in compliance with 37 CFR 1.63 must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

7

29 APR 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David S. Resnick
Nixon Peabody
101 Federal Street
Boston, MA 02110

In re Application of SNYDER, Evan Y. et al. Application No.: 10/204,160 PCT No.: PCT/US01/08273 Int. Filing Date: 15 March 2001 Priority Date: 15 March 2000 Attorney Docket No.: 701039-051252 For: SYSTEMIC GENE DELIVERY VEHICLES FOR THE TREATMENT OF TUMORS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to "Renewed Petition Under 37 CFR §1.181," filed with the United States Patent and Trademark Office on 19 April 2004.

BACKGROUND

On 15 March 2001, applicants filed international application PCT/US01/08273. On 15 October 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 15 September 2002 (16 September 2002 was a Sunday).

On 19 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 26 September 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 March 2003, applicants submitted a petition under 37 CFR 1.181, accompanied by an executed declaration.

On 05 September 2003, the Office dismissed applicants' petition without prejudice and indicated that the declaration was not in compliance with 37 CFR 1.63.

On 19 April 2004, applicants submitted a renewed petition accompanied by a supplemental declaration.

DISCUSSION

Applicants have submitted a postcard receipt for submission of a renewed petition on 05 November 2003. Applicants indicate that the papers that accompany the 19 April 2004 submission are a true copy of the 05 November 2003 submission. The 19 April 2004 papers are accepted as having been received on 05 November 2003.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied.

As to item (3), it appears that applicant resubmitted the proof submitted on 26 March 2003. This is not sufficient. Applicants must supply the docket records reflecting all items docketed for response on the day a response was due for the allegedly nonreceived office action. In this case, applicants must furnish the docket records showing all items docketed for response on 26 November 2002, not just the records for this application. MPEP 711.03(c). The docket record must be referenced in practitioner's statement.

The declarations submitted on 05 November 2003 in combination with the 26 March 2003 declarations satisfy 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 05 November 2003.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

03 MAY 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

David S. Resnick
Nixon Peabody
101 Federal Street
Boston, MA 02110

In re Application of	:	
SNYDER, Evan Y. et al.	:	
Application No.: 10/204,160	:	DECISION ON
PCT No.: PCT/US01/08273	:	
Int. Filing Date: 15 March 2001	:	PETITION
Priority Date: 15 March 2000	:	
Attorney Docket No.: 701039-051252	:	UNDER 37 CFR 1.181
For: SYSTEMIC GENE DELIVERY	:	
VEHICLES FOR THE TREATMENT	:	
OF TUMORS	:	

This decision is in response to "Renewed Petition Under 37 CFR §1.181," filed with the United States Patent and Trademark Office on 25 May 2004.

BACKGROUND

On 15 March 2001, applicants filed international application PCT/US01/08273. On 15 October 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 15 September 2002 (16 September 2002 was a Sunday).

On 19 August 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 26 September 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 March 2003, applicants submitted a petition under 37 CFR 1.181, accompanied by an executed declaration.

On 05 September 2003, the Office dismissed applicants' petition without prejudice and indicated that the declaration was not in compliance with 37 CFR 1.63.

On 19 April 2004, applicants submitted a renewed petition accompanied by a supplemental declaration.

On 29 April 2004, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

On 25 May 2004, applicants submitted a second renewed petition.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied.

CONCLUSION

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

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

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE
SUITE 1200
CHICAGO, IL 60604

COPY MAILED

JUL 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Vratislav PERNA	:	
Application No. 10/204,161	:	DECISION GRANTING PETITION
Filed: August 19, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CU-2967	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 December 9, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 9, 2004. A Notice of Abandonment was mailed on July 6, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply to the non-final Office action of December 9, 2003; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 9, 2003 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3748 for appropriate action in the normal course of business on the reply received November 16, 2005.

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

SEP 22 2004

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:
Hiep Tran et al	:
Serial No.: 10/204,169	: PETITION TO MAKE SPECIAL
Filed: August 19, 2002	:
Attorney Docket No.: 1955PO2524US	:

This is in response to the petition filed August 12, 2004, 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, XII. Therefor the petition is **GRANTED**.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

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

18 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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

Larry A. Roberts
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
SUITE #2800
ATLANTA, GA 30309-4530

In re Application of GLEJBOL et al.
Application No.: 10/204,179
PCT Application No.: PCT/DK01/00017
Int. Filing Date: 11 January 2001
Priority Date Claimed: 16 February 2000
Attorney Docket No.: 44125/276640
For: FLEXIBLE, ARMOURED PIPE AND USE OF SAME

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition To Withdraw Holding of Abandonment" filed in the United States Patent and Trademark Office on 28 February 2004.

BACKGROUND

On 11 January 2001, applicants filed international application PCT/DK01/00017. The international application claims a priority date 16 February 2000 and designates the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. The deadline for paying the basic national fee in the United States is thirty months from the priority date, that is 16 August 2002.

On 16 August 2002, applicants filed a transmittal letter for entry into the US national stage under 35 U.S.C. 371, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), a surcharge of $130 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date.

On 13 September 2002, a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b). An extendable 2-month reply period was provided.

On 09 December 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to respond to the Notification of Missing Requirements under 35 U.S.C. 371 within the time period set therein.

On 28 February 2004, applicants filed the instant petition asserting that the missing item indicated in the Notification of Missing Requirements under 35 U.S.C. 371 was filed on 13 November 2002.

DISCUSSION

The petition is accompanied by a postal receipt card that has been date-stamped by the United States Patent and Trademark Office. The postal receipt card indicates that on 13 November 2002, for this application, the United States Patent and Trademark Office received, *inter alia*, an executed declaration and power of attorney. Furthermore, the petition indicates that a copy of each of the documents previously filed on 13 November 2002 is enclosed with the petition.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**, and the holding of abandonment is hereby **WITHDRAWN**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 December 2003 is hereby **VACATED**

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Helen Kwok
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS J. MELORO, ESQ.
KENYON & KENEYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED
JUN 15 2006
OFFICE OF PETITIONS

In re Application of :
Klaus Heilmann t al. :
Application No. 10/204,181 : ON PETITION
Filed: February 3, 2003 :
Attorney Docket No. 2565/133 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 14, 2005 for failure to timely reply to the final Office Action mailed July 13, 2005. Accordingly, a Notice of Abandonment was mailed March 29, 2006.

In response thereof, 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 1723 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
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

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 06/01/2010

Applicant	: Mika Raitola	: DECISION ON REQUEST FOR
Patent Number	: 7626989	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/204,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1670** 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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6659593	2003-12-09	10204211	2002-08-19	MJ49US

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/ks/	Date (YYYY-MM-DD)	2008-02-13
Name	Kia Silverbrook		
Enter Reel and Frame Number		Remove	
Reel Number	013322	Frame Number	0079
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6659593
Issue Date: December 9,2003
Application No. 10204211
Filed: August 19,2002
Attorney Docket No. MJ49US

:

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

:

This is a decision on the electronic petition, filed February 12,2008 ,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 February 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

MAIL

NOV 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Uehara et al.
Application No. 10/239,794
Filed: August 19, 2002
For: BASE STATION APPARATUS AND RADIO TRANSMISSION METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 19, 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 Technology Center's Technical Support Staff for entry of the preliminary amendment and from there will be forwarded to the examiner for appropriate action in due course.

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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 8/23/05 Paper No.: _____

TO : Supervisor, Art Unit 1623/1624

SUBJECT : Certificate of Correction Request in Patent No.: 6,906,042 B2

A response to the following question is requested with respect to the accompanying request for a certific 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 tl scope or meaning of the claims be changed.

Newsome, L.

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, regarding the changes requested in the Request for Certificate of Correction, l placing a check mark (+) in the box that reflects your decision, which corresponds to the question checke above.

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:** _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Supervisor

1624/1623

Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0851-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

APPLICATION NO.: 10/204,227

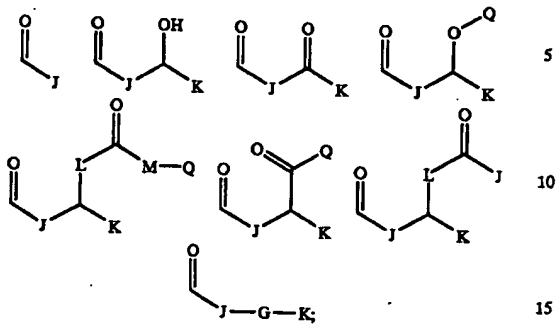
ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

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

In the ABSTRACT at lines 2-4, change each occurrence of "micells," to correctly recite --micelles,--
In the ABSTRACT at line 5, change "inflamatory" to correctly recite --inflammatory--

At column 21, line 1 to about line 17, delete the following:



At column 21, line 21, in the definition of R^2, "C_{1-15}" should be changed to correctly recite --C_{5-15}--

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

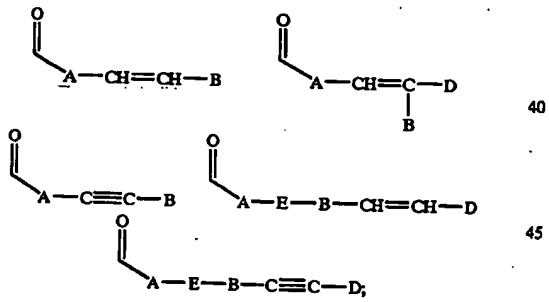
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

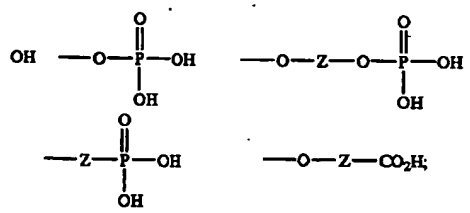
INVENTOR(S) : McShane et al

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

At column 21, about line 38 to about line 49, delete the following:



At column 22, about line 13 to about line 20, delete the following:



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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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

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

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0851-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

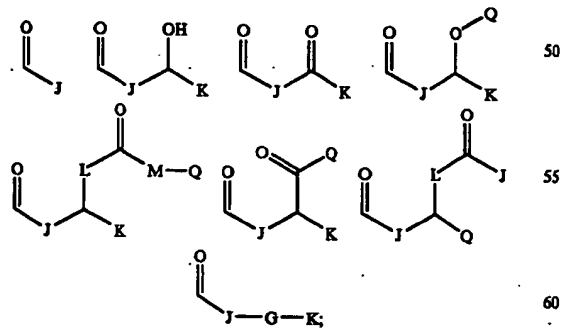
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

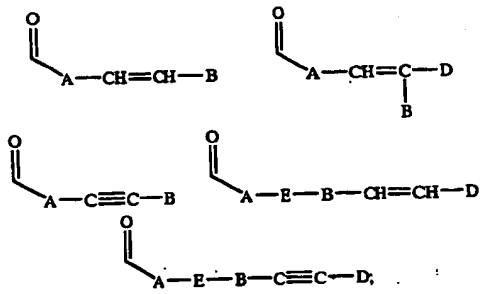
INVENTOR(S) : McShane et al

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

At column 23, about line 50 to about line 60, delete the following:



At column 24, about line 15 to about line 25, delete the following:



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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

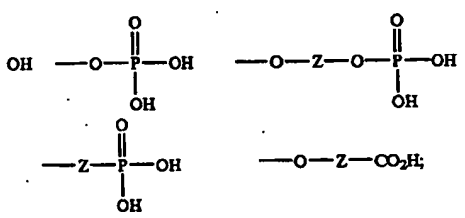
It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 24, line 29, in the definition of A, B and D, "C_{4-20}" should be changed to correctly recite --C_{1-15}--

At column 24, line 30, in the definition of R^4, "C_{1-15}" should be changed to correctly recite --C_{4-20}--

At column 24, about line 55 to about line 62, delete the following:

"



"

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

APPLICATION NO.: 10/204,227

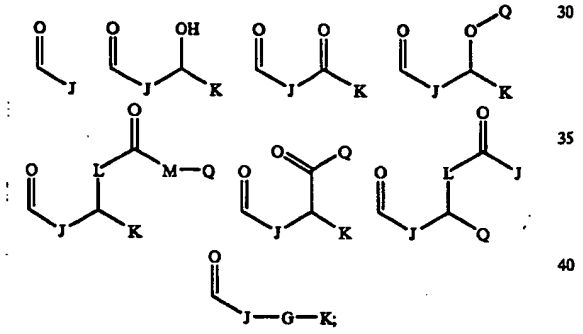
ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

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

At column 25, about line 30 to about line 43, delete the following:

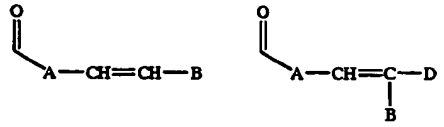
"



"

At column 25, about line 63 to about line 66, delete the following:

"



"

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

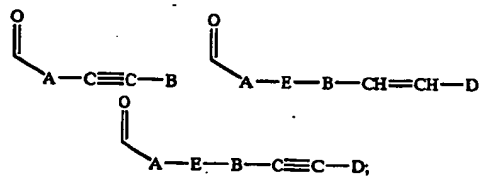
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

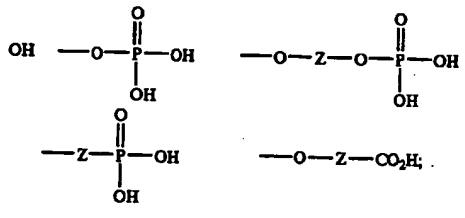
It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 26, line 1 to line 9, delete the following:



At column 26, line 19, in the definition of U and V, "C_{2-5}" should be changed to correctly recite --C_{2-15}--

At column 26, about line 38 to about line 45, delete the following:



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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

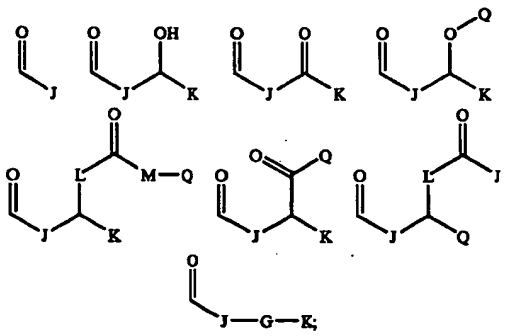
It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 27, lines 25-26, change "$CH_2)_2CH(OCH_3)(CH_2)_6CH_3$" to correctly recite --$(CH_2)_2CH(OCH_3)(CH_2)_6CH_3$--

At column 28, line 3, change "$CH_2)_2CH(OCH_3)(CH_2)_6CH_3$" to correctly recite --$(CH_2)_2CH(OCH_3)(CH_2)_6CH_3$--

At column 29, line 10, change "of claim 44, to" to correctly recite --of claim 44 to--

At column 30, about line 6 to about line 18, delete the following:



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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

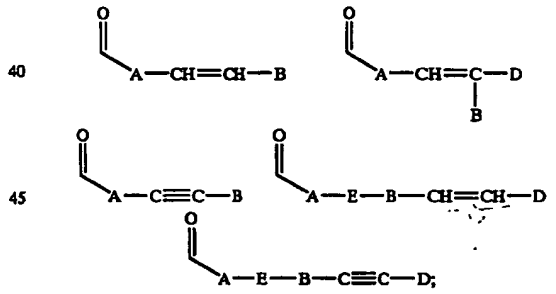
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

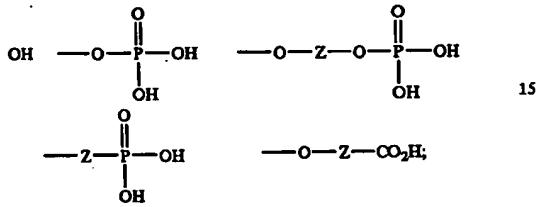
INVENTOR(S) : McShane et al

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

At column 30, about line 39 to about line 49, delete the following:



At column 31, about line 12 to about line 20, delete the following:



At column 32, line 39, change "$CH_2)_2CH(OCH_3)(CH_2)_6CH_3$" to correctly recite --$(CH_2)_2CH(OCH_3)(CH_2)_6CH_3$--

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

JUL 20 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

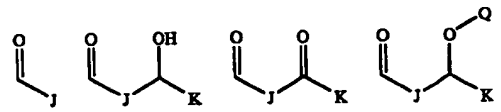
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

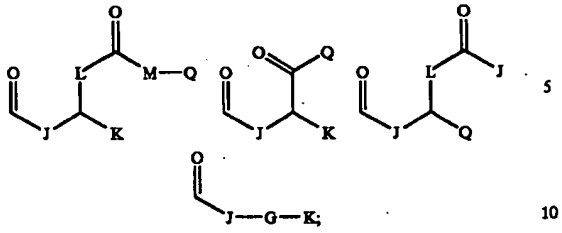
INVENTOR(S) : McShane et al

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

At column 34, about line 63 to about line 66, delete the following:



At column 35, line 1 to about line 11, delete the following:



At column 35, line 14, in the definition of J, K and Q, change "C_{1-5}" to correctly recite --C_{1-15}--

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

0 2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

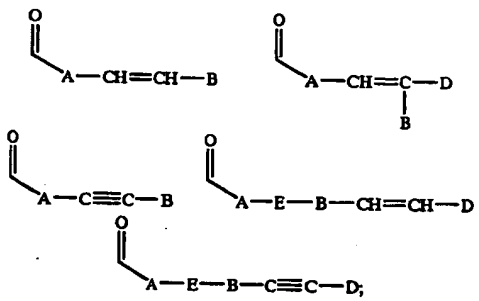
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

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

At column 35, about line 30 to about line 41, delete the following:



At column 35, line 44, in the definition of A, B and D, change "C_{1-5}" to correctly recite --C_{1-15}--

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

2005

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,906,042 B2

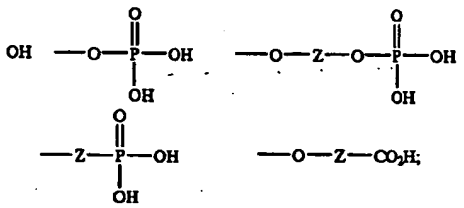
APPLICATION NO.: 10/204,227

ISSUE DATE : June 14, 2005

INVENTOR(S) : McShane et al

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

At column 36, about line 6 to about line 14, delete the following:



At column 36, line 58, change "$-CO(CH_2)_9CH{=}CH(CH_2)_5CH_3R^4$" to correctly recite -- $-CO(CH_2)_9CH{=}CH(CH_2)_5CH_3$; and R^4 --

At column 36, line 61, change "$CH_2)_2CH(OCH_3)(CH_2)_6CH_3$" to correctly recite --$(CH_2)_2CH(OCH_3)(CH_2)_6CH_3$--

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

Edward Grieff
Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW, Washington, DC 20004

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.

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

ZHIBIN REN
QUARLES & BRADY
PO BOX 2113
MADISON, WI 53701-2113

COPY MAILED

MAY 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Schafer et al.	:
Application No. 10/204,234	: DECISION ON PETITION
Filed: December 30, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 411044.90099	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/256,625, filed December 18, 2000, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The PCT Application No. PCT/CA01/61802 was filed on December 17, 2001, within twelve months of the filing date of the above-noted, prior-filed provisional application, which was filed on December 18, 2000, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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).

Petitioner seeks to amend the first line of the specification to include a priority claim to PCT Application No. PCT/CA01/01802, filed December 17, 2001. However, as set forth in MPEP 1898.03(c), page 1800-149, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1330.00 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to 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:	(703) 872-9306 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks

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

---

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZHIBIN REN
QUARLES & BRADY
PO BOX 2113
MADISON, WI 53701-2113

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:
Schafer et al.	:
Application No. 10/204,234	: DECISION GRANTING PETITION
Filed: December 30, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 411044.90099	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/256,625, filed December 18, 2000, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the national stage application of PCT Application No. PCT/CA01/01802, filed on December 17, 2001, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/256,625, which was filed on December 18, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 36 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1642 for appropriate action on the amendment submitted June 27, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/256,625.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZHIBIN REN
QUARLES & BRADY
PO BOX 2113
MADISON, WI 53701-2113

COPY MAILED

APR 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Schafer et al.	:	
Application No. 10/204,234	:	ON PETITION
Filed: December 30, 2002	:	
Attorney Docket No. 411044.90099	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed Mach 13, 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 corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

01 MAY 2003

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

Steve Mendelsohn
MENDELSOHN & ASSOCIATES, P.C.
1515 Market Street, Suite 715
Philadelphia, PA 19102

In re Application of
RING, Steven *et al*
U.S. Application No.: 10/204,235
PCT No.: PCT/GB01/00360
Int. Filing Date: 29 January 2001
Priority Date: 17 February 2000
Attorney Docket No.: 1052.016
For: DISTORTION DETECTION FOR A POWER AMPLIFIER

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition under 37 C.F.R. 1.47" filed on 04 December 2002.

BACKGROUND

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond.

On 04 December 2002, applicants submitted a response to the Notification of Missing Requirements which was accompanied by, *inter alia*, the instant petition; the petition fee and surcharge fee; and a declaration signed by one of the two listed co-inventors.

On 11 April 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted on 04 December 2002 was not in compliance with 37 CFR 1.497(a) and (b) because Ronald G. Dann did not sign the declaration. Applicants were given a time limit of one month of the date of this Notification or within the time remaining in the Notification of Missing Requirements, whichever is longer. No extension of this time limit pursuant to 37 CFR 1.136(a) was allowed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the nonsigning inventor refuses to execute the

application; (3) a statement of the last known address of the nonsigning inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

Regarding item (3), applicants included the address of Mr. Ronald G. Dann on the declaration provided. It is listed as:

125 Belmont Road, St. Andrews
Bristol, United Kingdom BS6 5AR

With regards to item (4), applicants submitted a declaration signed by one of the two listed co-inventors, Steven R. Ring. The nonsigning co-inventor's name, residence, post office address and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has also been satisfied.

However, applicants failed to satisfy item (2). In the petition, counsel states that the nonsigning co-inventor is "not cooperative." Counsel claims that a declaration and power of attorney were sent to Mr. Dann's home with instructions but that "Mr. Dann has not responded to any corrspondence, nor has he returned the executed form."

This is not sufficient to meet the requirements of item (2) of 37 CFR 1.47(a). Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Applicants must submit an affidavit or declaration by a person having first hand knowledge of the facts concerning the purported refusal by Mr. Dann. Applicants must also provide documentary evidence to support facts alleged in the petition. Finally, applicants must also show that the nonsigning co-inventor was provided a complete copy of the application, not just a copy of a declaration and power of attorney. Section 409.03(d) of the MPEP also states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration . . .
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

CONCLUSION

For failing to meet all of the requirements of 37 CFR 1.47(a), applicants' petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Applicants filed the instant petition on 04 December 2002 which is an acceptable response to the Notification of Missing Requirements.

Therefore, the Notification of Defective Response (Form PCT/DO/EO/916)

mailed 11 April 2003 was sent in error and is hereby **VACATED**.

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

10 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steve Mendelsohn
MENDELSOHN & ASSOCIATES, P.C.
1515 Market Street, Suite 715
Philadelphia, PA 19102

In re Application of
RING, Steven *et al*
U.S. Application No.: 10/204,235
PCT No.: PCT/GB01/00360
Int. Filing Date: 29 January 2001
Priority Date: 17 February 2000
Attorney Docket No.: 1052.016
For: DISTORTION DETECTION FOR A POWER AMPLIFIER

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition under 37 C.F.R. 1.47(a)" ("Ren.Pet.") filed on 09 June 2003.

BACKGROUND

On 01 May 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to meet the requirements of item (2).

On 09 June 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a copy of a letter dated 03 June 2003, a copy of a Federal Express air receipt, and an E-mail message dated 06 June 2003.

DISCUSSION

In the original petition, applicants failed to satisfy all of the requirements of item (2) of 37 CFR 1.47(a). Applicants were requested to submit an affidavit or declaration by a person having first hand knowledge concerning the purported refusal by Mr. Ronald G. Dann, provide any required documentary evidence, and demonstrate that the nonsigning co-inventor was provided a complete copy of the application.

In the renewed petition, counsel declares that "on June 3, 2003, I sent a letter to Mr. Dann via Federal Express International with a declaration form, a copy of the patent application as filed, and a copy of the preliminary amendment that was filed with the patent application." Ren.Pet. at ¶ 2. Counsel included a copy of the cover letter sent to Mr. Dann along with a copy of the "FedEx International Air Waybil." The letter states that a copy of the above-captioned patent application was also provided to Mr. Dann.

In response, counsel states that Mr. Dann sent him an E-mail message on 06

June 2003 which "constitutes factual proof that the nonsigning inventor refuses to execute the application." Id. at ¶ 3. A review of the E-mail message verifies that Mr. Dann refuses to cooperate in the above-identified application. This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Therefore, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 January 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 04 December 2002.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

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

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

10 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald G. Dann
125 Belmont Road
St. Andrews
Bristol, BS6 5AR
United Kingdom

In re Application of
RING, Steven *et al*
U.S. Application No.: 10/204,235
PCT No.: PCT/GB01/00360
Int. Filing Date: 29 January 2001
Priority Date: 17 February 2000
Attorney Docket No.: 1052.016
For: DISTORTION DETECTION FOR A POWER AMPLIFIER

Dear Mr. Dann:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

Steve Mendelsohn
MENDELSOHN & ASSOCIATES, P.C.
1515 Market Street, Suite 715
Philadelphia, PA 19102

10 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steve Mendelsohn
MENDELSOHN & ASSOCIATES, P.C.
1515 Market Street, Suite 715
Philadelphia, PA 19102

In re Application of RING, Steven *et al* U.S. Application No.: 10/204,235 PCT No.: PCT/GB01/00360 Int. Filing Date: 29 January 2001 Priority Date: 17 February 2000 Attorney Docket No.: 1052.016 For: DISTORTION DETECTION FOR A POWER AMPLIFIER	:	**DECISION ON PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Renewed Petition under 37 C.F.R. 1.47(a)" ("Ren.Pet.") filed on 09 June 2003.

BACKGROUND

On 01 May 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to meet the requirements of item (2).

On 09 June 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a copy of a letter dated 03 June 2003, a copy of a Federal Express air receipt, and an E-mail message dated 06 June 2003.

DISCUSSION

In the original petition, applicants failed to satisfy all of the requirements of item (2) of 37 CFR 1.47(a). Applicants were requested to submit an affidavit or declaration by a person having first hand knowledge concerning the purported refusal by Mr. Ronald G. Dann, provide any required documentary evidence, and demonstrate that the nonsigning co-inventor was provided a complete copy of the application.

In the renewed petition, counsel declares that "on June 3, 2003, I sent a letter to Mr. Dann via Federal Express International with a declaration form, a copy of the patent application as filed, and a copy of the preliminary amendment that was filed with the patent application." Ren.Pet. at ¶ 2. Counsel included a copy of the cover letter sent to Mr. Dann along with a copy of the "FedEx International Air Waybil." The letter states that a copy of the above-captioned patent application was also provided to Mr. Dann.

In response, counsel states that Mr. Dann sent him an E-mail message on 06

June 2003 which "constitutes factual proof that the nonsigning inventor refuses to execute the application." Id. at ¶ 3. A review of the E-mail message verifies that Mr. Dann refuses to cooperate in the above-identified application. This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Therefore, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 January 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 04 December 2002.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

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

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

19 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nickolas E. Westman
WESTMAN, CHAMPLIN & KELLY, P.A.
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, MI 55402-3319

In re Application of KEEN, Paul *et al* Application No.: 10/204,245 PCT No.: PCT/AU01/00174 Int. Filing Date: 21 February 2001 Priority Date: 21 February 2000 Attorney's Docket No.: A63.12-0001 For: IMPROVEMENTS IN HEATING/VENTILATION/AIR . . .	**DECISION ON PETITION** **TO WITHDRAW HOLDING** **OF ABANDONMENT**

This decision is in response to applicants' "Letter Regarding Deposit Account Authorization" ("Ltr.") filed on 01 November 2002. This letter is treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 19 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, authorization to charge a fee of $890.00 using a credit card.

On 03 October 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed stating that the above-captioned application was abandoned because applicants failed to provide the full U.S. basic national fee by thirty months.

On 01 November 2002, applicant filed the instant petition which was accompanied by, *inter alia*, a copy of the Credit Card Payment Form (PTO-2038) filed with the national stage papers on 19 August 2002, and a stamped postcard receipt for the 19 August 2002 mailing.

DISCUSSION

Applicant requests to withdraw the holding of abandonment because "at the bottom of the form 2038, there is an authorization, that if in fact the form is incomplete, that the charge of any required fee could be made to deposit account number 23-1123. In this instance the form was incomplete by not having the complete fee of $1,040.00 mentioned specifically in the payment amount blank." Ltr. at ¶ 2.

A review of the above-captioned application file shows that neither the

international preliminary examination fee nor the international search fee was paid to the USPTO, and the International Search Report was not prepared by the EPO or JPO. The Australian Patent Office conducted the international search and international preliminary examination of the international application, PCT/AU01/00174. Consequently, the appropriate basic national fee in the above-captioned application was $1,040.00. This fee must be paid in full prior to the expiration of thirty months from the earliest claimed priority date and the thirty-month period may not be extended. *See* 37 CFR 1.495(b)(2).

In this case, applicant submitted a Credit Card Payment Form to charge for the basic national fee. The amount to be paid was specifically written out as $890.00. On the bottom of the Credit Card Payment Form, applicant added a clause which states that "[i]n the event this authorization form is unacceptable or incomplete, or in the event that the charge is rejected by the card issuer, please charge the required fee to Deposit Account No. 23-1123." Applicant signed on a line underneath this clause on the Credit card Payment Form.

This clause is not <u>effective</u>. The Credit Card Payment Form is not part of the patent application. *See* MPEP § 509. It is retained by Office of Finance separately. This is to ensure that any credit card information does not become available to the public. In addition, the USPTO does not accept a general authorization to charge fees to a credit card. Applicant must specify the amount to be charged and such other information as is necessary to process the charge. *See* Payment of Fees by Credit Card, Final Rule, OG Date 13 June 2000.

The Credit Card Payment Form also does not have a box to charge any additional fees which may be required to counsel's Deposit Account. The transmittal letter accompanying the national stage papers located in the application does have two such boxes. One box allows any of the required fees to be charged to Deposit Account No. 23-1123. The other box gives the Commissioner the authority "to charge any additional fees which may be required . . . to Deposit Account No. 23-1123."

Neither of these boxes were checked with this filing. Instead, applicant checked the box on the transmittal letter that states that "[f]ees are to be charged to a credit card" on the transmittal letter and included a separate Credit Card Payment Form. There is no other indication that any additional fees could be charged to counsel's Deposit Account located elsewhere in the patent application.

Placing the deposit account authorization on the Credit Card Payment Form is similar to placing a Deposit Account authorization on the check itself, or on the postcard receipt which is returned to applicant. The Office does not give effect to either of those authorizations since these papers are not retained in the file and will not give any effect

to an authorization placed on the Credit Card Payment Form. This form is the instrument used to obtain the fees itself.

Even if the clause was deemed to be effective, the above-captioned application would remain abandoned. A review of the clause reveals that it is not a general authorization containing broad language that is found on the transmittal letter. It is very specific and must be interpreted as such. The clause states that "[i]n the event this authorization form is **unacceptable** or **incomplete**, or in the event that a charge is **rejected** by the card issuer, please charge the required fee to Deposit Account No. 23-1123." (Emphasis added). In the instant petition, applicant argues that "the form was incomplete by not having the complete $1,040.00 mentioned specifically in the payment amount blank." Ltr. at ¶ 2.

However, the Credit Card Payment Form was completed with the required information to charge the specific amount requested. In this case, applicant requested that "Eight Hundred and Ninety Dollars" ($890.00) be charged to the Visa account for the "National Phase Filing Fee." The Office is only allowed to charge the specific amount requested on this form. *See* Payment of Fees by Credit Card, Final Rule, OG Date 13 June 2000. The Credit Card Payment Form submitted was also accepted. The charge of $890.00 was successfully made. Therefore, none of the conditions occurred to activate the Deposit Account authorization.

DECISION

Applicant's petition to withdraw the holding of abandonment is **DISMISSED** without prejudice. The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, applicant's response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicant may also wish to consider filing a petition to revive pursuant to 37 CFR 1.137(a) or (b).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

26 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nickolas E. Westman
WESTMAN, CHAMPLIN & KELLY, P.A.
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, MI 55402-3319

In re Application of KEEN, Paul *et al* Application No.: 10/204,245 PCT No.: PCT/AU01/00174 Int. Filing Date: 21 February 2001 Priority Date: 21 February 2000 Attorney's Docket No.: A63.12-0001 For: IMPROVEMENTS IN HEATING/VENTILATION/AIR . . .	**DECISION ON** **PETITION UNDER** **37 CFR 1.137(b)**

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b)" filed via facsimile on 25 March 2003 in the above-captioned application is hereby **GRANTED** as follows:

The $150.00 difference for the basic national fee and the $1300.00 petition to revive fee has been charged to Deposit Account No. 23-1123 as authorized.

Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

25 JUL 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Crowell & Moring, LLP
PO Box 14300
Washington, DC 20044-4300

In re Application of	:	
Martin	:	
US Application No.: 10/204,246	:	
PCT Application No.: PCT/EP01/01647	:	DECISION ON PETITION
International Filing Date: 15 February 2001	:	TO WITHDRAW
Priority Date: 21 February 2000	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 1860/51276	:	
For: MIXING CAPSULE AND METHOD	:	
OF USING AND MAKING SAME	:	

This is in response to the petition under 37 CFR 1.137(b), filed by facsimile on 18 July 2003, asserting timely response to a USPTO correspondence. The petition is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced international application.

BACKGROUND

On 15 February 2001, Applicant filed international application PCT/EP01/01647, which claimed priority of an earlier application filed on 21 February 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 21 September 2001. A Demand for International Preliminary Examination was filed on 17 January 2001, the end of the 19th month from the 21 February 2000 priority date. Therefore, the period for entering the national stage is 30 months and ended on 21 August 2002.

On 21 August 2002, Applicant filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by, *inter alia*, the $890 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), an English translation of the international application, and an unexecuted declaration.

On 19 December 2002, a "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) was mailed, setting forth an extendable 2-month period for submitting an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 17 March 2003, a "Notice of Abandonment under 35 CFR 1.53(f) or (g)" was mailed.

The instant petition asserts timely submission of a proper declaration.

ANALYSIS

Upon review of the application file, the Office located a "Submission of Missing Parts in Application" filed on 14 February 2003, within the 2-month period set forth in the above Form PCT/DO/EO/905, along with, *inter alia*, an executed "Declaration and Power of Attorney" and the $130 surcharge for late filing of an acceptable oath/declaration. These items apparently were not matched with the file until recently.

CONCLUSION

In view of the above, Applicant timely filed a declaration, rendering the international application not abandoned as indicated in the 17 March 2003 Notice of Abandonment. The petition is thus **GRANTED.**

Consequently, the holding of abandonment in the international application as to the United States is hereby **WITHDRAWN**, and the 17 March 2003 Notice of Abandonment **VACATED**.

A review of the declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b). Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 15 February 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **14 February 2003.**

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

COPY MAILED

MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Alessandro Lualdi
Application No. 10/204,251
Filed: November 26, 2002
Attorney Docket No. JACB106.001APC

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 17, 2004, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor will be changed as follows:

1. Alessandro Lualdi

The above-identified application is being forwarded to Technology Center Art Unit 3731 for examination.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 2 2005

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:
Nagaaki Sato et al	:
Serial No.: 10/204,267	: PETITION DECISION
Filed: September 25, 2002	:
Attorney Docket No.: 2002-1040A	:

This is in response to the petition under 37 CFR 1.144, filed June 2, 2005, 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. 371 and accepted on September 25, 2002, and contained claims 1-23 as filed and amended by Preliminary amendment. In a first Office action, mailed December 1, 2003, the examiner set forth a restriction requirement in accordance with PCT Rule 13.1 and 37 CFR 1.499, as follows:

Group I – Claims 1-16, 22-23 (all in part), drawn to compounds of Formula 1 where R^1-R^{12} and Ar^1-Ar^3 are as defined but do not represent a heterocyclic group;

Group II – Claims 1-16, 22-23 (all in part), drawn to compounds of Formula 1 where R^2-R^{12} and Ar^1-Ar^2 are as defined but do not represent a heterocyclic group and R^1 is Ar^3, and X and Y are methylene;

Group III – Claims 1-16, 22-23 (all in part), drawn to compounds of Formula 1 where R^2-R^{12} and Ar^1-Ar^2 are as defined but do not represent a heterocyclic group and R^1 is Ar^3, and X and Y are NR^{12};

Group IV – Claims 1-16, 22-23 (all in part), drawn to compounds of Formula 1 where R^2-R^{12} and Ar^1-Ar^2 are as defined but do not represent a heterocyclic group and R^1 is Ar^3, and X and Y are N and O or N and S;

Group V – Claim 17, drawn to a method of making the compounds of Formula 1;

Group VI – Claim 18, drawn to a second method of making the compounds of Formula 1;

Group VII - Claim 19, drawn to a third method of making the compounds of Formula 1;

Group VIII - Claims 20-21, drawn to a method of use of the compounds of Formula 1.

The examiner reasoned that the compounds of Groups I-III (sic IV) were distinct from each other due to structure differences. The examiner also indicated that only one method of making would be examined with the elected product.

Applicants replied on May 3, 2004, electing Group I with traverse, and canceling claims 2, 4-5, 7 and 11-15. Applicants argued that no Lack of Unity had been made in the International phase and that the scope of Groups I-IV was not distinct, but overlapping and that all of the compounds have the same utility. Applicants also argued that the methods of making and using should be examined with the compounds.

The examiner mailed a non-Final Office action to applicants on July 27, 2004, acknowledging applicants' election of Group I and traversal. The examiner maintained the Lack of Unity holding based on there being multiple products claimed which are distinct and made it Final. Further that there is no special technical feature common to all of the compounds which defines over the art. The only common structure is the imidazole ring which is well known and does not define over the art. The examiner also rejected claims 1, 3, 6, 8-10 and 17 under 35 U.S.C. 112, first paragraph, as lacking enablement. Claims 18-23 were withdrawn as non-elected. The status of claim 16 was not given.

Applicants replied on October 27, 2004, by further amending claims 1 and 17-21. The rejection was traversed based on the amendments. The restriction requirement was again traversed for the same reasons.

On February 8, 2005, the examiner mailed an *ex parte Quayle* action to applicants, setting a two month period for reply, indicating claims 1-3, 6, 8-10 and 16-17 were allowed. The rejection was withdrawn and the examined claims indicated allowable (canceled claim 2 was inadvertently indicated as allowable). Applicants were asked to cancel the non-elected subject matter from the allowed claims.

This petition was filed on June 2, 2005. It is noted that this petition could be considered untimely under 37 CFR 1.181(f) since it was not filed within two months of the examiner action from which complaint is taken. However, the petition will be addressed on the merits in order to advance prosecution.

DISCUSSION

Unity of Invention under PCT guidelines is based on there being a general inventive concept presented in the claims. A general inventive concept may include claims to a compound or composition and its method of making or method of use. Unity exists between compounds where there is a substantial portion of the structure in common among all variations of the compounds.

Applicants argue that the Lack of Unity requirement is in error and based on incorrect application of the Rules. Applicants note that no Lack of Unity was found in the International

phase, but recognize that such is not binding on the USPTO. Unity of Invention is reviewed at each stage of prosecution of a PCT application, including entry into the National Phase.

Applicants first argue that claims 18-23 should not have been excluded from examination as they meet the criteria under PCT Rule 13.1 and 13.4 for inclusion. As noted above the inclusion of a (single) method of making and a (single) method of using a claimed compound with the compound is presumed to have unity. However, presentation of multiple methods of making tends to indicate Lack of Unity among the methods. Here three methods of making the claimed compounds are presented. The examiner should have included the first method of making with the compound claims examined inasmuch as they appear to include all of the limitations of the compound claims. Likewise, the sole method of use claim should have been included with the compound claims. However, the second and third method of making claims need not have been included in view of 37 CFR 1.475. (Note M.P.E.P. 801.24, relied on by applicants, is directed primarily to applications filed under 35 U.S.C. 111 which are subject to the provisions of *In re Ochiai*.)

Applicants argue that the original main claim compounds represented by Formula 1 was held to lack a special technical feature on which Unity could be based. The examiner divided the compounds represented by Formula 1 into several groups based on the combination of the imidazole structure and the attached variables, holding that the imidazole ring was insufficient to alone be considered a special technical feature as it is well known. A review of the Lack of Unity requirement shows that all of the Groups restricted Ar^1 and Ar^2 to aryl and excluded all heteroaryl options. The same is true for Ar^3 in Group I, but not Groups II-IV. In this sense the claims were improperly limited within the Groups. Nevertheless, applicants elected Group I and have amended the Ar variables to be only aryl substituents in the amendment of October 27, 2004. Thus this part of the traversal is no longer at issue.

The examiner in the last Office action dismissed the method of use claims as having problems under 35 U.S.C. 112, second paragraph, but failed to identify what the problems were and suggested the claims be canceled with all other withdrawn claims. Such violates the requirements of Unity of Invention under PCT where method of use (and method of making) claims are to be fully examined with the compound claims, especially when the compound claims are found to make a contribution over the prior art. If the method claims are not allowable under one or more sections of the statute a proper rejection must be made to which applicants may reply and amend or cancel the claims. The examiner here has failed to permit such prosecution to take place.

It is noted that the claims to the intermediate product are properly held to lack Unity as they fail to contain the imidazole ring which must be part of any special technical feature for the product claims.

In summary, the examiner is required to examine with the allowed product claims at least one (the first) method of making the product and the method of using the product.

DECISION

The petition is **GRANTED.**

In view of the above the last Office action is withdrawn as improper. The application will be forwarded to the examiner for preparation of a new 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.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark G. Lappin
McDermott Will & Emery
28 State Street
Boston, MA 02109

COPY MAILED

JUN 03 2008

OFFICE OF PETITIONS

In re Application of :
Jonathan A. Bachman, et. al. :
Application No. 10/204,288 : ON PETITION
Filed: August 16, 2002 :
Attorney Docket No. PLAL-110 :

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

The application became abandoned for failure to respond to the non-final Office action mailed June 28, 2006. A Notice of Abandonment was mailed on February 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, $225 for claims in excess of twenty and $315 for independent claims in excess of three; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to Technology Center Art Unit 2134 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: Foley & Lardner, LLP
111 Huntington Avenue
Boston, MA 02199

UNITED STATES 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

SEP 2 8 2005

OFFICE OF PETITIONS

NOVAK DRUCE DELUCA & QUIGG
1300 Eye Street, N.W.
Suite 400 East
Washington, D.C. 2003

In re Application of:
ROHDE, Wolgang, et al.
Application No.: 10/204,289
Filing Date: August 19, 2002
Attorney's Docket No.: DE000045
For: PLASTIC HOLLOW BODY HAVING AN INCREASED RESISTANCE TO BURNING DUE TO THE PROVISION OF FLAMEPROOFING AGENTS

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed May 09, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed October 14, 2004, which set a shortened statutory period of reply of three (3) months. On February 25, 2005, applicants filed an "Amendment Under 37 CFR 1.116" in response to the final Office Action, accompanied by the fee for a two month extension of time. However, as indicated in the Advisory Action mailed April 19, 2005, the Amendment was not sufficient to place the application in condition for allowance. Accordingly, the application was abandoned as of midnight on March 14, 2005.

On May 09, 2005, applicants 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 a Request For Continued Examination (RCE), with fee (the Amendment previously filed on February 25, 2005 satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of October 14, 2004 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1772

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 03 2007

OFFICE OF PETITIONS

In re Patent No. 7,004,338 :
Issue Date: February 28, 2006 :
Application No. 10/204,296 :
Filed: September 12, 2002 :
Attorney Docket No. 5067-30PUS :

ON PETITION

This is a decision on the petition filed May 22, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 7/14/05

TO SPE OF : ART UNIT 1755 10/204305

SUBJECT : Request for Certificate of Correction on Patent No.: 6849570 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:
Cl. 6, (Cl. 7 as orig filed) changed "mineral" to "material" in amdt filed 3/22/04 (not compliant, as, SM says "original") At any rate, patent claim is OK
Please see Attachment

SPE

1755
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

ATTACHMENT

In an amendment filed on March 22, 2004, the word "mineral" was changed to "material" in Patent Claim 6 (originally filed as claim 7). Further, this amendment was technically non-compliant, as the status modifier of said claim 7 was "original".

Patent Claim 6, as it presently appears, is correct. Therefore, the proposed amendment thereto in Applicants' Certificate of Correction is unnecessary.

J.A. LORENGO
SUPERVISORY PATENT EXAMINER

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#12

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

AUG 1 2003

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

In re Application of	:
Kuniaki Tatsuta et al	:
Serial No.: 10/204,312	: PETITION DECISION
Filed: November 21, 2002	:
Attorney Docket No.: 227325US-0X	:

This is a decision on the petition under 37 CFR 1.144, filed June 20, 2003, requesting review of a restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on November 21, 2002, as complete. The examiner assigned to the application mailed a first Office action to applicants on April 4, 2003, setting a one month shortened statutory period for reply, and setting forth a lack of unity requirement as follows:

> Group I, claims 1-3, drawn to a process for preparing compounds;
> Group II, claims 4-6, drawn to a process for preparing compounds.

The examiner found no special technical feature linking Groups I and II as they are directed to different processes for preparing different compounds.

Applicants replied on May 5, 2003, electing Group I with traverse and adding claims 7-9, also directed to a process for producing compounds. Applicants argued that the Group I process produces a final product from an intermediate and that the Group II process produces the intermediate and that the claims therefor have Unity. Applicants also refer to M.P.E.P. 803 which directs an examiner to examiner an entire application if it does not place a serious burden on the examiner even if the claims are directed to different inventions.

On May 21, 2003, the examiner mailed an *ex parte Quayle* Office action to applicants indicating claims 1-3 to be allowable (no specific reason given) and requiring cancellation of the non-elected claims, setting a one month shortened statutory period for reply.

DISCUSSION

Applicants argue that the relationship between Groups I and II is that Group I is drawn to a process of making a final product from an intermediate and Group II is drawn to a process for making the intermediate. Applicants also argue that claims 7-9, added by amendment, are directed to the process of making the final product of Group I.

Applicants' statements support the examiner's holding that Groups I and II are directed to different processes. The Group I claims are clearly directed to inserting an ethylene group between a ring carbon and the aldehyde group attached thereto by use of a phosphorous type compound and the Group II claims are to a process for converting an ester to an aldehyde using lithium aluminum hydride and a secondary amine. The product then becomes the starting material for the Group I claims. The only link between the two processes is the product of one becomes the starting material of the other. However, they still remain two separate processes as there is no original claim which begins with the ester and produces the aldehyde. As the examiner noted in the first Office action 37 CFR 1.475(d), where multiple processes are claimed, the first invention of the category will be regarded as the main invention. This is in accord with PCT Lack of Unity guidelines. Here, no overall reaction scheme links the individual reaction steps and a Lack of Unity holding is proper.

With regard to claims 7-9, added by applicants in response to the Lack of Unity holding, these new claims are directed to the making of the intermediate but are dependent on claim 1. This is obviously a belated attempt to provide an overall reaction scheme encompassing both Groups of claims and are properly held as non-elected by original presentation. It is also noted that Lack of Unity between Groups I and II was consistently held in both Chapter I and II in the international phase and no attempt was made there or in entering the national phase to provide an all encompassing reaction process.

DECISION

Applicants' petition under 37 CFR 1.144 is **DENIED.**

Applicants remain under obligation to file a proper reply to the Office action of May 21, 2003, within the time period as set therein or as may be extended under 37 CFR 1.136(a).

Should there be any questions with respect to 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.

Bruce M. Kisliuk
Director, Technology Center 1600

#15

COPY

DOCKET NO: 227325US-0X PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	:
KUNIAKI TATSUTA ET AL	: GROUP ART UNIT: 1625
SERIAL NO.: 10/204,312	:
FILED: NOVEMBER 21, 2002	: EXAMINER: MORRIS, P.

FOR: PROCESSES FOR PREPARING QUINOLINE DERIVATIVES AND INTERMEDIATES THEREOF

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

SIR:

Applicants hereby request reconsideration of the decision on petition dated August 1, 2003 (Decision).

The petition was under 37 CFR 1.144 and 1.181 from the Examiner's withdrawal of Claims 7-9 from consideration in the Office Action dated May 21, 2003.

Enclosed herewith is an amendment canceling Claims 4-6.

The Decision devotes most of its discussion to the propriety of the Examiner's Restriction Requirement between Claims 1-3, as Group I, and Claims 4-6, as Group II. However, Applicants did not challenge the propriety of the Restriction Requirement in the petition. Rather, Applicants challenged the propriety of withholding Claims 7-9 from consideration, which Applicants contended, and still contend, are properly classified in Group I. Group I is drawn to a process of making a final product from an intermediate. Claims 7-9

PAGE 10/19 * RCVD AT 3/22/2004 4:33:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/11 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):05-06

are also drawn to a process of making a final product from an intermediate, with further limitations on how the intermediate is obtained.

The Decision finds that the addition of Claims 7-9 "is obviously a belated attempt to provide an overall reaction scheme encompassing both Groups of claims and are properly held as non-elected by original presentation. It is also noted that Lack of Unity between Groups I and II was consistently held in both Chapters I and II in the international phase and no attempt was made there or in entering the national phase to provide an all encompassing reaction process."

In reply, and as discussed with William R. Dixon, Jr., Director, Technology Center 1600, on August 11, 2003, it is not clear how the above-quoted finding has any relevance to the merits of the petition, or whether Claims 7-9 are properly within the scope of elected Group I. As indicated above, an amendment is enclosed canceling non-elected Claims 4-6. Moreover, since the Examiner has already allowed Claims 1-3, Claims 7-9 are necessarily allowable over the prior art, since they contain all the limitations of the allowed claims. Clearly, there can be no undue burden on the Examiner to examine these claims.

PAGE 11/19 * RCVD AT 3/22/2004 4:33:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/11 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):05-06

In view of the above, it is respectfully requested that the Decision be vacated, and that the Examiner be instructed to examine Claims 7-9.

Respectfully submitted,

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

Norman F. Oblon
Registration No. 24,618
Attorney of Record

Harris A. Pitlick
Registration No. 38,779

22850

(703) 413-3000
(703) 413-2220 (fax)
NFO:HAP

PAGE 12/19 * RCVD AT 3/22/2004 4:33:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/11 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):05-06

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 19 2004

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

In re Application of	:
Kuniaki Tatsuta et al	:
Serial No.: 10/204,312	: PETITION DECISION
Filed: November 21, 2002	:
Attorney Docket No.: 227325US-0X	:

This is in response to the petition under 37 CFR 1.181, filed January 14, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

A review of the file history shows that the examiner mailed an Office action to applicants on May 21, 2003, setting a one month shortened statutory period for reply and stating that failure to reply would result in the non-elected claims being canceled and the application passed to issue. Applicants filed a petition June 20, 2003, which resulted in a petition decision being mailed on August 1, 2003. In response to the decision applicants filed a reply on August 21, 2003, including a request for a two month extension of time and fee therefor. A Notice of Abandonment was mailed to applicants on December 29, 2003, in contravention to the examiner's statement in the Office action (see paragraph bridging pages 2-3), and in view of the amendment not being correlated with the file. The reply has now been correlated with the file. In view of the above the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

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

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 19 2004

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

In re Application of	:
Kuniaki Tatsuta et al	:
Serial No.: 10/204,312	: PETITION DECISION
Filed: November 21, 2002	:
Attorney Docket No.: 227325US-0X	:

This is a decision on the renewed petition under 37 CFR 1.144, filed August 21, 2003, requesting reconsideration of a petition decision.

BACKGROUND

A review of the file history is given in the previous petition decision and is not repeated herein. In reply to the petition decision applicants filed an amendment canceling claims 4-6 and this request for reconsideration of the petition decision.

DISCUSSION

Applicants state that they challenged the propriety of withholding newly added claims withdrawn from consideration, not the propriety of the restriction requirement between claims 1-3 and claims 4-6. Applicants state that they still contend that claims 7-9 should be grouped and classified with claims 1-3. As stated previously:

> Applicants' statements support the examiner's holding that Groups I and II are directed to different processes. The Group I claims are clearly directed to inserting an ethylene group between a ring carbon and the aldehyde group attached thereto by use of a phosphorous type compound and the Group II claims are to a process for converting an ester to an aldehyde using lithium aluminum hydride and a secondary amine. The product then becomes the starting material for the Group I claims. The only link between the two processes is the product of one becomes the starting material of the other. However, they still remain two separate processes as there is no original claim which begins with the ester and produces the aldehyde. As the examiner noted in the first Office action 37 CFR 1.475(d), where multiple processes are claimed, the first invention of the category will be regarded as the main invention. This is in accord with PCT Lack of Unity guidelines.

Here, no overall reaction scheme links the individual reaction steps and a Lack of Unity holding is proper.

Claims 7-9 were clearly added by applicants in response to the Lack of Unity holding in the National stage application solely for the purpose of providing a link between the two sets of claims for which Lack of Unity was held in the International stage. However these claims were not added on filing of the National stage, but after the Lack of Unity holding was repeated in the National stage in an obviously belated attempt to provide an overall reaction scheme encompassing both Groups of claims. As such they were properly held as non-elected by original presentation.

DECISION

Applicants' petition under 37 CFR 1.144 is again **DENIED.**

The amendment filed August 21, 2003, is considered timely and the application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to 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 571-272-0519or by facsimile transmission at 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Joseph J. Laks
Thomson Licensing LLC
PO Box 5312
Princeton NJ 08543-5312

RECEIVED
JAN 05 2009
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Cooper Jr. et al.	:	
Application No. 10/204,317	:	
Filed: August 20, 2002	:	
Atty Docket No. RCA 90105	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 15, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, June 5, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply filed, the above-identified application became abandoned effective September 6, 2008. This petition was filed prior to the mailing of a courtesy Notice of Abandonment mailed September 22, 2008.

This petition includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

---

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings. In addition, a response was timely filed on July 11, 2008 in response to the NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION mailed June 27, 2008. Thus, the required reply submitted is sufficient.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

27 OCT 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pennie & Edmonds LLP
1155 Avenue Of The Americas
New York, NY 10036-2711

In re Application of	:	
Hosaka et al.	:	
Application No.: 10/204,326	:	
PCT No.: PCT/JP01/01077	:	
Int. Filing Date: 15 February 2001	:	DECISION
Priority Date: 15 February 2000	:	
Attorney Docket No.: 7005-130-999	:	
For: Eosinophil-Specific Apoptosis Inducer	:	

This is a decision on applicants' "Petition Under 37 CFR 1.182 To Record Change Of Inventor's Name" filed on 23 December 2002.

BACKGROUND

This international application was filed on 15 February 2001 and claimed a priority date of 15 February 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 23 August 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 15 August 2002.

On 15 August 2002, applicants filed *inter alia* the basic national fee.

On 25 September 2002, a Notification of Missing Requirements (Form PCT/DO/EO/909) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and the surcharge under 37 CFR 1.492(e).

10/28/2003 MKAYPAGH 00000157 161150 10204326

01 FC:1460 130.00 DA

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 23 December 2002 itemizes a joint inventor, Emi Hosaka, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Emi Shoji, whose name does not appear in the declaration of the inventors filed on 06 January 2003. Counsel indicates that "The name change was effected by the marriage of Emi Shoji." The communication is accompanied by a statement by Emi Hosaka, attesting that the name change was due to marriage. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a petition under 37 CFR 1.182 is required to resolve this matter. In this regard, counsel's deposit account no. 16-1150 is

being charged in the amount of $130.00 for the petition fee, as authorized by the instant petition. *See* MPEP 605.04(c).

CONCLUSION

The petition to accept the declaration as filed on 23 December 2002 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c)(1), (2) and (4) is **23 December 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES 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.

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

COPY MAILED

JAN 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,404,953	:	
Hosaka et al.	:	DECISION ON REQUEST
Issue Date: July 29, 2008	:	FOR RECONSIDERATION OF
Application No. 10/204,326	:	PATENT TERM ADJUSTMENT
Filed: December 23, 2002	:	and
Attorney Docket No. 7005-130-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR CORRECTED TERM ADJUSTMENT," filed on July 30, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be increased by two (2) days from 554 days to 556 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred fifty-six (556) days.

On July 29, 2008, the above-identified application matured into U.S. Patent No. 7,404,953. The instant request for reconsideration filed on July 30, 2008 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 554 days.

Patentees contend that the reduction in patent term adjustment of two (2) days for the filing of a request to accept foreign priority papers after the mailing of a notice of allowance, from the date the request to accept foreign priority papers was

filed, on April 17, 2008, to the date a letter acknowledging receipt of the foreign priority papers was mailed, on April 18, 2008, is incorrect and should be removed. Specifically, patentees assert that no request to accept foreign priority documents was actually filed on April 17, 2008. Rather, assert patentees, the priority papers were filed prior to the mailing of the first office action, mailed on March 27, 2006, but receipt thereof was not acknowledged prior to the mailing of the letter of April 18, 2008.

Patentees' contention is well taken. Upon review of the official file, no priority papers were filed on April 17, 2008. Rather, the priority document was filed on August 15, 2002, but was first acknowledged in the paper mailed on April 18, 2008. Accordingly, the reduction of two (2) days for filing of priority papers after the mailing of the notice of allowance is not warranted and will be removed.

In view thereof, the patent term adjustment indicated on the patent should be five hundred fifty-six (556) days (763 days of Office delay and 207 (209-2) days of applicant delay).

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 referred to the Certificate of Correction Branch for issuance of a certificate of correction 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 FIVE HUNDRED FIFTY-SIX (556) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,404,953 B2

DATED : July 29, 2008

INVENTOR(S) : Emil Hosaka 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 (554) days

Delete the phrase "by 554 days" and insert – by 556 days--

01 MAY 2003

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Colleen J. McKiernan
Brown, Martin, Haller & McClain
1660 Union Street
San Diego, CA 92101

In re Application of MASLIAH, et al. Application No.: 10/204,337 PCT No.: PCT/US01/05569 Int. Filing Date: 20 February 2001 Priority Date: 18 February 2000 Attorney Docket No.: 6627-PA9014 For: METHOD FOR SCREENING FOR ANTI-AMYLOIDOGENIC PROPERTIES AND METHOD FOR TREATMENT OF NEURODEGENERATIVE DISEASE	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Petition to Add Inventors Under C.R.F. 1.497(d)" filed 09 December 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 February 2001, applicant filed international application PCT/US01/05569, which claimed priority of an earlier application filed 18 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2002.

On 16 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an unsigned declaration of the inventors and a sequence listing.

On 07 October 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was also notified of the need to pay the $65.00 surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees. In addition, applicant was advised that the previously filed sequence listing did not comply with the requirements of 37 CFR 1.822 and/or 1.832.

On 09 December 2002, applicant responded with the present "Petition to Add Inventors Under C.R.F. 1.497(d)"; a declaration executed by Eliezer MASLIAH, Edward ROCKENSTEIN and Makoto HASHIMOTO and a check in the amount of $235.00 ($65.00 as payment of the surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date; $130.00 as payment of the petition fee and $40.00 as payment of the assignment recordation fee.)

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant has satisfied items (3).

Regarding Item (1), applicant has not provided complete statements from Edward ROCKENSTEIN and Makoto HASHIMOTO declaring that the error occurred without any deceptive intention on their part. It appears that the first page of each statement was omitted when the papers were assembled for filing and thus only the signature pages of Edward ROCKENSTEIN and Makoto HASHIMOTO were included; this is insufficient.

As to Item (2), the filed declaration does not comply with 37 CFR 1.497 (a)-(b). Specifically, the declaration contains two separate "page 2 of 3." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Regarding Item (4), it appears from the published application that applicant has filed an assignment document in the present application but has not provided the written consent of the assignee to add inventors to application as discussed above.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **DISMISSED**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

08 JUL 2003

Colleen J. McKiernan
Brown, Martin, Haller & McClain
1660 Union Street
San Diego, CA 92101

In re Application of MASLIAH, et al. Application No.: 10/204,337 PCT No.: PCT/US01/05569 Int. Filing Date: 20 February 2001 Priority Date: 18 February 2000 Attorney Docket No.: 6627-PA9014 For: METHOD FOR SCREENING FOR ANTI-AMYLOIDOGENIC PROPERTIES AND METHOD FOR TREATMENT OF NEURODEGENERATIVE DISEASE	DECISION ON RENEWED UNDER PETITION 37 CFR 1.497(d)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 22 May 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 May 2003, applicant was mailed a decision dismissing applicant's request under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 22 May 2003, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

As detailed in the decision mailed 01 May 2003, a request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant previously satisfied item (3).

Regarding Item (1), applicant has not provided complete statements from Edward ROCKENSTEIN and Makoto HASHIMOTO declaring that the error occurred without any deceptive intention on their part. An examination of the executed statements finds that each statement begins, "I, Eliezer Masliah...." Thus, the individuals seeking to be added have not executed declarations avowing to their own statements. This is insufficient.

As to Item (2), the filed declarations do not comply with 37 CFR 1.497 (a)-(b). Specifically, the filing date of the international application is incorrectly identified as "02/02/2001" whereas the correct international filing date is 20 February 2001.

As to item (4), applicant has presently provided the written consent of the Regents of the University of California, to add Edward ROCKENSTEIN and Makoto HASHIMOTO as inventors, purportedly as the assignee for the present invention. However, applicant has not provided any documentary evidence with the present renewed petition that the Regents of the University of California are in fact the assignee. See 37 CFR 3.73.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **DISMISSED**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

17 SEP 2003

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Colleen J. McKiernan
Brown, Martin, Haller & McClain
1660 Union Street
San Diego, CA 92101

In re Application of MASLIAH, et al. Application No.: 10/204,337 PCT No.: PCT/US01/05569 Int. Filing Date: 20 February 2001 Priority Date: 18 February 2000 Attorney Docket No.: 6627-PA9014 For: METHOD FOR SCREENING FOR ANTI-AMYLOIDOGENIC PROPERTIES AND METHOD FOR TREATMENT OF NEURODEGENERATIVE DISEASE	DECISION ON RENEWED UNDER PETITION 37 CFR 1.497(d)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 06 August 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 July 2003, applicant was mailed a decision dismissing applicant's request under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 06 August 2003, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

As detailed in the decision mailed 01 May 2003, a request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant previously satisfied item (3).

Regarding Item (1), applicant has presently provided complete statements from Edward ROCKENSTEIN and Makoto HASHIMOTO declaring that the error occurred without any deceptive intention on their part. Applicant has therefore satisfied this item.

As to item (4), applicant has presently provided the written consent of the Regents of the University of California, to add Edward ROCKENSTEIN and Makoto HASHIMOTO as inventors, purportedly as the assignee for the present invention. In addition, the present filing contains copies of the filed assignment documents thus providing documentary evidence that the Regents of the University of California is the rightful assignee for the present invention. Applicant has thus satisfied this item.

As to Item (2), applicant is referred to the decision mailed 08 July 2003 in which applicant was informed that the filed declarations did not comply with 37 CFR 1.497 (a)-(b). Specifically, the filing date of the international application is incorrectly identified as "02/02/2001" whereas the correct international filing date is 20 February 2001.

In light of the fact that applicant has not satisfied item (2) above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **DISMISSED**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

2 9 DEC 2003

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Colleen J. McKiernan
Brown, Martin, Haller & McClain
1660 Union Street
San Diego, CA 92101

In re Application of MASLIAH, et al. Application No.: 10/204,337 PCT No.: PCT/US01/05569 Int. Filing Date: 20 February 2001 Priority Date: 18 February 2000 Attorney Docket No.: 6627-PA9014 For: METHOD FOR SCREENING FOR ANTI-AMYLOIDOGENIC PROPERTIES AND METHOD FOR TREATMENT OF NEURODEGENERATIVE DISEASE	DECISION ON RENEWED UNDER PETITION 37 CFR 1.497(d)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 14 November 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 September 2003, applicant was mailed a decision dismissing applicant's request under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 14 November 2003, applicant filed the present response.

DISCUSSION

Applicant's previous renewed petition was dismissed based on the fact that the filing date of the international application in the filed declaration was incorrectly identified as "02/02/2001" whereas the correct international filing date is 20 February 2001. As discussed in applicant's response, this error does not render the declaration non-compliant as to 35 U.S.C. 371.

CONCLUSION

For the reasons discussed above, the renewed petition under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the

requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 20 February 2001 and a date of **22 May 2003** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

22 OCT 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen A. Bent
Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington, DC 20007

In re Application of	:	DECISION ON PETITION
MORELL, et al.	:	
U.S. Application No.: 10/204,347	:	UNDER 37 CFR 1.181 AND
PCT No.: PCT/AU01/00175	:	
Int. Filing Date: 21 February 2001	:	NOTIFICATION OF
Priority Date: 21 February 2000	:	
Attorney Docket No.: 054270-0140	:	ABANDONMENT
For: STARCH BRANCHING ENZYME	:	

This decision is in response to applicant's "Petition For Issuance of Re-started Notification of Defective Response Under 37 C.F.R. § 1.182" filed 03 July 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. As requested applicant's $130.00 petition will be refunded to Deposit Account No.: 19-0741.

BACKGROUND

On 21 February 2001, applicant filed international application PCT/AU01/00175 which claimed priority to a Australian application filed 21 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 August 2001.International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2002.

On 20 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary Amendment and an Application Data Sheet. An executed oath or declaration of the inventors was not filed.

On 20 September 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was advised of the need to provide payment of the $130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date, as well as, a sequence listing for the present application.. Applicant was provided two months to file the proper response and

advised that this time could be extended pursuant to 37 CFR 1.136(a).

On 20 December 2002, applicant filed a response which included an executed combined declaration and power of attorney, a sequence listing and a petition for a one-month extension of time.

On 23 May 2003, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the sequence listing filed 08 May 2003 did not comply 37 CFR 1.821-1.825 and thus was not a proper response to the Form PCT/DO/EO/905 mailed 06 March 2002. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 04 June 2003, applicant was mailed a "Withdrawal of Previously Sent Notice" withdrawing the Form PCT/DO/EO/916 mailed 23 May 2003 accompanied by a new Form PCT/DO/EO/916 informing applicant that the sequence listing filed 20 December 2002 did not comply 37 CFR 1.821-1.825 and thus was not a proper response to the Form PCT/DO/EO/905 mailed 06 March 2002. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 27 June 2003, applicant was faxed an additional copy of the Raw Sequence Listing Error Report.

On 03 July 2003, applicant filed the present petition under 37 CFR 1.182 seeking a new response period.

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicant has merely satisfied item (1) above regarding the purportedly missing Raw Sequence Listing Error Report. As such, applicant has not made a proper showing the requested relief can not be granted. In addition, a review of the application file finds that applicant has yet to provide a compliant sequence listing. As both periods detailed in the Form PCT/DO/EO/916 mailed 04 June 2003 have expired, this application is held abandoned as to the National Stage in the United States.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

As the petition was treated as a petition under 37 CFR 1.181, applicant's $130.00 petition will be refunded to Deposit Account No.: 19-0741.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

Any further correspondence with respect to this matter should be directed 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

08 SEP 2004

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen A. Bent
Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington, DC 20007

In re Application of	:	
MORELL, et al.	:	
U.S. Application No.: 10/204,347	:	DECISION ON PETITION
PCT No.: PCT/AU01/00175	:	
Int. Filing Date: 21 February 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 February 2000	:	
Attorney Docket No.: 054270-0140	:	
For: STARCH BRANCHING ENZYME	:	

This decision is in response to applicant's "Petition For Revival of Application For Patent Abandoned Unintentionally Under 37 CFR §1.137(b)" filed 31 December 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 October 2003, applicant was mailed a decision and notice of abandonment informing applicant that the above-identified application was abandoned for failure to respond to the Form PCT/DO/EO/916 within the time period prescribed therein and advised to file a petition for revival.

On 31 October 2003, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909).

On 31 December 2003, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (2), applicant has paid the appropriate petition fee.

As to Item (3), applicant's statement that "the entire delay in filing the required reply in this case, from the due date for the reply until the filing of this petition, was unintentional" satisfies Item (3).

With regard to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Thus, applicant has satisfied Items (2) - (4) above.

However, with regard to Item (1), the proper response was the required sequence listing pursuant to 37 CFR 1.821-1.825. Applicant has merely provided a copy of the paper sequence listing filed with the international application, PCT/AU01/00175. PCT Rule 23 (c) states that any sequence listing in computer readable form which is furnished to the receiving Office shall be transmitted to the International Searching Authority. In the subject international application, both the receiving office and searching authority were the Australian Patent Office. The sequence listing is not considered part of the international application and therefore is not forwarded to the Designated/Elected Offices.

In addition, 37 CFR 1.821 states:

(e) A copy of the "Sequence Listing"referred to in paragraph (c) of this section must also be submitted in computer readable form (CRF) in accordance with the requirements of § 1.824.

Applicant is re-directed to the raw sequence listing error report which details errors on pages 3-6 and 8-10 and that a corrected

Accordingly, the proper reply has not been furnished and a proper response to the Form PCT/DO/EO/916 mailed 04 June 2003 and the Form PCT/DO/EO/905 mailed 20 September 2002 remains outstanding.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

26 NOV 2004

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen A. Bent
Foley & Lardner
3000 K Street, N.W., Suite 500
Washington, DC 20007

In re Application of MORELL, et al. U.S. Application No.: 10/204,347 PCT No.: PCT/AU01/00175 Int. Filing Date: 21 February 2001 Priority Date: 21 February 2000 Attorney Docket No.: 054270-0140 For: STARCH BRANCHING ENZYME	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 17 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2) - (4) above.

A review of the application file reveals that applicant has currently satisfied item (1) in providing a compliant Sequence Listing for the present application. As such, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 21 February 2001 under 35 U.S.C. 363 and will be given a date of **20 December 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

01 MAR 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Liniar, Berenato, Longacre & White
6550 Rock Spring Drive
Suite 240
Bethesda, Maryland 20817

In re Application of		
THOMIRE et al.	:	
Serial No.: 10/204,352	:	
PCT No.: PCT/FR01/04186	:	DECISION ON PETITION
Int. Filing Date: 21 December 2001	:	UNDER 37 CFR 1.181
Priority Date: 22 December 2000	:	
Atty. Docket No.: 1200.604	:	
For: THRUST BEARING FOR A	:	
CLUTCH, ESPECIALLY OF A	:	
MOTOR VEHICLE	:	

This is a decision on applicants' "Petition to Withdraw Notice of Abandonment" which is being treated as a petition under 37 CFR 1.181 filed 24 February 2004.

BACKGROUND

On 21 December 2001, applicants filed international application PCT/FR01/04186 which claimed a priority date of 22 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 July 2002. A Demand for international preliminary examination was not filed. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 22 August 2002.

On 20 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; and a preliminary amendment.

On 30 September 2002, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was required. The notification set a two-month time limit in which to respond.

On 11 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing

Requirements mailed 30 September 2002 within the time period set therein.

On 24 February 2004, applicants filed the present "Petition to Withdraw Notice of Abandonment."

DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

Applicants' petition filed 24 February 2004 satisfies all of the items above. Applicant's counsel attests that the Office action was not received and that a search of the file jacket indicated the Office action was not received. Applicant also submits a copy of the docket record where the non-received office action would have been entered had it been received.

CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

29 JUL 2003

UNITED STATES PATENT and TRADEMARK OFFICE

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

Jerald E. Nagae
CHRISTENSEN O'CONNOR JOHNSON
KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of	:	DECISION ON
C Celik et al.	:	
PCT No.: PCT/IB01/00434	:	
Application No.: 10/204,361	:	PETITION UNDER
Int. Filing Date: 16 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney's Docket No.: SMBR119616	:	37 CFR 1.47(a)
For: NICKEL POWDER FOR USE...	:	
CERAMIC CAPACITORS	:	

This decision is in response to petitioner's "PETITION UNDER 37 CFR 1.47" submitted on 03 April 2003 that seeks the acceptance of the application without the signature of the inventor Gangqiang Chen. Petitioner has submitted the requisite $130 petition fee by check.

BACKGROUND

On 16 February 2001, applicant filed international application PCT/IB01/00434, which claimed priority of an earlier application filed 18 February 2000. A copy of the international application was transmitted to the United States from the International Bureau on 23 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2002.

On 16 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 07 October 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. The notification set two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant, inter alia, filed on 03 April 2003, a petition under 37 CFR 1.47, the petition, a Declaration for U.S. Patent Application executed by Censur Celik and Tony Addona on their behalf and on behalf on the nonsigning inventor, and an affidavit of Solomon Gold.

DISCUSSION

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

The averments of Solomon Gold are insufficient to support a finding that the nonsigning inventor, Mr. Gangqiang Chen could not be found after diligent effort. The affidavit of Mr. Gold states that on paragraphs 5-7 that he consulted Canada 411 directory, an internet telephone directory including the telephone company for the Province of Quebec, and was able to obtain a listing for Mr. Chen at 1245 Decarie in St. Laurent, Quebec. Consequently, Mr. Gold tried calling the number but it was no longer in service, and the sent the papers (Combined Declaration and Power of Attorney) at the address indicated and has received no reply from Mr. Chen.

However, Mr. Gold has provided no proof to corroborate his actions. He has not submitted copies of documentary evidence such as the search conducted by the internet or by the Canadian telephone directory. In addition, Mr. Gold has not provided a copy of the returned envelope, a certified mail return receipt, a cover letter instructions, and etc., as required by MPEP Section 409.03 to support his allegation. In this instance, it is unclear from paragraph 7 if the papers were delivered and signed for or were not able to be delivered because Mr. Chen did not reside in the address listed.

Consequently, at this time it can not be concluded that the nonsigning Mr. Chen could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

02 DEC 2004

#6

UNITED STATES PATENT and TRADEMARK OFFICE

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

Jerald E. Nagae
CHRISTENSEN O'CONNOR JOHNSON
KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of	DECISION ON RENEWED
C Celik et al.	
PCT No.: PCT/IB01/00434	
Application No.: 10/204,361	PETITION UNDER
Int. Filing Date: 16 February 2001	
Priority Date: 18 February 2000	
Attorney's Docket No.: SMBR119616	37 CFR 1.47(a)
For: NICKEL POWDER FOR USE...	
CERAMIC CAPACITORS	

This decision is in response to petitioner's "RESPONSE T NOTIFICATION OF ABANDONMENT AND RENEWED PETITION UNDER 37 CFR 1.47(a)" submitted on 09 August 2004 and 03 December 2003 respectively that seeks the acceptance of the application without the signature of the inventor Gangqiang Chen.

BACKGROUND

In a decision from this Office on 29 July 2003, the petition filed on 03 April 2003 was dismissed. The decision stated that item (2) under 37 CFR 1.47(a) had not been met.

On 03 December 2003, petitioner allegedly filed a renewed petition under 37 CFR 1.47(a) stating that at the time that the non-signing inventor could not be found after diligent effort.

On 08 June 2004, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned.

On 09 August 2004, petitioner resubmitted true copies of the submission of 03 December 2003 since the original submitted copies were not with the file. Included with the submission is an affidavit by Daphne C. Ripley that has new evidence Mr. Chen's whereabouts.

DISCUSSION

I. 37 CFR 1.181:

Petitioner's present petition is accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Renewed Petition Under 37 CFR Sec 1.47(a)

(2) Transmittal with an extension of time

(3) Affidavit of Daphne C. Ripley

(4) Exhibits A-H (21 pgs)

The postcard lists the above items and bears a USPTO date of stamp as 03 December 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the renewed petition was deposited with the U.S. Patent and Trademark Office on 03 December 2003.

Accordingly, the instant application has been **improperly abandoned.**

II. 37 CFR 1.47(a)

Petitioner has still not satisfied requirement (2) under 1.47(a).

Although the renewed petition provides proof to corroborate the averments of Solomon Gold that Mr. Chen could not be found after diligent effort, the the affidavit by Ms. Ripley in the renewed petition also states that there is new evidence that Mr. Chen is now associated with Ningbo Guangbo Nanomaterials in China. It further states that a copy of the Combined Declaration and Power of Attorney, together with a copy of the application were sent to Mr. Chen at the address for Ningbo by courier on October 29, 2003, which is his last known place of business.

However, the affidavit does not state how the applicant was able to locate or associate Mr. Chen with Ningbo Guangbo Nanomaterials in China. It appears from these facts that Mr. Chen was located after diligent effort and that he refuses to sign the required papers. Because petitioner has not firmly stated that Mr. Chen has been located at such location and the affidavit is silent on the issue of the steps taken to locate his new whereabouts, petitioner needs to inform the USPTO on how applicant was able to locate Mr. Chen or why applicant assumes that Mr. Chen has been located at Ningbo Guangbo Nanomaterials in China. Moreover, it is unclear if Mr. Chen received the package and had enough time to review the documents by the time it filtered its way through Ningbo since it was delivered at Ningbo on November 3, 2003 and the petition was drafted on or about November 27, 2003. In addition, applicant may have to update Mr. Chen's address if applicant is able to obtain it by reasonable means such as through the internet, phone directory in Shiqi Ningbo Zhejiang or by Mr. Chen's current employer.

Consequently, at this time it can not be concluded that the nonsigning Mr. Chen could not be reached after diligent effort or refuses to sign the required documents as stipulated under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED.** The **NOTIFICATION OF ABANDONMENT** mailed 08 June 2004 has been **VACATED.**

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

22 APR 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

Jerald E. Nagae
CHRISTENSEN O'CONNOR JOHNSON
KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of	:	DECISION ON SECOND
C Celik et al.	:	
PCT No.: PCT/IB01/00434	:	
Application No.: 10/204,361	:	
Int. Filing Date: 16 February 2001	:	RENEWED PETITION
Priority Date: 18 February 2000	:	
Attorney's Docket No.: SMBR119616	:	
For: NICKEL POWDER FOR USE...	:	
CERAMIC CAPACITORS	:	UNDER 37 CFR 1.47(a)

This is in response to the "SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)," filed on 07 March 2005.

BACKGROUND

In a decision from this Office on 02 December 2004, the renewed petition under 37 CFR 1.47(a) was dismissed. The decision stated that requirement (2) under 37 CFR 1.47(a) was not met.

On 07 March 2005, submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 02 December 2004. Mr. Celik explains how he discovered Mr. Chen's association with Ningbo Guangbo Nanomatrials Co., Ltd. in China, and that Mr. Chen has still not responded to the correspondence sent to him at Ningbo.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

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

The second renewed petition of 07 March 2005 has satisfied the requirements under 37 CFR 1.47(a).

Mr. Celik explains how he discovered Mr. Chen's association with Ningbo Guangbo Nanomatrials Co., Ltd. in China and that Mr. Chen has not responded to the correspondence sent to him by courier on October 29, 2003 at the address for Ningbo. This affidavit together with the previously filed affidavits show a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for his signature as stipulated under MPEP 409.03(d). Accordingly, the affidavits are sufficient to establish that the Mr. Chen has refused to sign the declaration.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

DECISION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **3 April 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3267
Facsimile: (571) 273-0459

22 APR 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

Mr. Gangqiang Chen
Ningbo Guangbo Nanomaterials Co., Ltd.
Guangbo Group
Youngor Road No. 501
Shiqi Ningbo Zhejiang
China, P.C. 315153

In re Application of
C Celik et al.
PCT No.: PCT/IB01/00434
Application No.: 10/204,361
Int. Filing Date: 16 February 2001
Priority Date: 18 February 2000
Attorney's Docket No.: SMBR119616
For: NICKEL POWDER FOR USE...
CERAMIC CAPACITORS

Dear Mr. Chen:

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

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

R Bacares

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Jerald E. Nagae
CHRISTENSEN O'CONNOR JOHNSON
KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

08 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J . Harold Nissen
Lackenbach Siegel LLP
One Chase Road
Scarsdale, New York 10583

In re Application of DAY, Patrick Hedley Application No.: 10/204,365 PCT No.: PCT/AU98/00619 Int. Filing Date: 06 August 1998 Priority Date: 06 August 1997 Atty. Docket No.: P-32RCE For: FOLDING BELT FILTER	DECISION

The petition to revive under 37 CFR 1.137(b) filed 06 August 2002 in the above-captioned application is hereby GRANTED as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $520 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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

13 JAN 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

OIPE JC49
JAN 13 2004
PATENT & TRADEMARK OFFICE

Davis S. Resnick
NIXON PEABODY
101 Federal Street
Boston, MA 02110

In re Application of :
CHVATCHKO, Yolande *et al* :
Application No.: 10/204,387 :
PCT No.: PCT/EP01/01867 :
Int. Filing Date: 20 February 2001 : **DECISION**
Priority Date: 21 February 2000 :
Attorney Docket No.: 057878-000010 :
For: USE OF IL-18 INHIBITORS :

This decision is in response to applicants' "Petition and Request for Corrected Filing Receipt" filed via facsimile on 15 December 2003 which is hereby **GRANTED** as follows:

The date in the filing date portion on the filing receipt of a national stage application is the date upon which applicants completed the requirements under 35 U.S.C. 371(c). *See* section 1895.01, *A. Filing Date as Applicant's Date of Invention*, Manual of Patent Examining Procedure (MPEP)(*see also* MPEP 1893.03(b)).

A review of the above-captioned application reveals that the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) on 05 May 2003 listing a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and a date of receipt of all 35 U.S.C. requirements of "01/24/2003." Applicants claim that this date should be 30 January 2003, not 24 January 2003.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. 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.

Here, applicants have provided a copy of the date-stamped filing receipt for documents submitted 30 January 2003. The name of the applicants and the application number are listed on the postcard receipt. The postcard receipt indicates that among the documents received in the USPTO included a "Declaration and Power of Attorney for Novick, Rubenstein, Chvatchko, Plater-Zyberk, Van Deventer, Dinarello and Kim." The postcard receipt is stamped "DT17 Rec'd PCT/PTO 30 JAN 2003" across its face.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 30 January 2003.

Accordingly, the Notification of Acceptance mailed 05 May 2003 is hereby **VACATED**.

Applicants also claim that the filing receipt contains an error in the second Foreign Application. It should read "00103590.6." A review of the filing receipt indicates that the second priority is listed as "0103590.6." This is incorrect. The correct number should be listed as "00103590.6."

This application is being forwarded to the DO/EO/US to mail a corrected Notification of Acceptance indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and date of receipt of all 35 U.S.C. requirements of **30 January 2003**, then mailing a corrected filing receipt indicating that the second Foreign Application number is "**00103590.6**." The application will then be forwarded to Technology Center 1600 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration
Tel.: (703) 308-6457

Nixon Peabody LLP
Attorneys at Law

101 Federal Street
Boston, Massachusetts 02110-1832
(617) 345-1000

Fax: (617) 345-1300

PRIVILEGE AND CONFIDENTIALITY NOTICE
The information in this fax is intended for the named recipients only. It contains privileged and confidential matter. If you have received this fax in error, please notify us immediately by a collect telephone call to (617) 345-1000 and return the original to the sender by mail. We will reimburse you for postage. Do not disclose the contents to anyone. Thank you.

FAX

To:	Company	Fax #:	Telephone #:
1) ATTN: James Thomson	U.S Patent and Trademark Office	(703) 308-6459	

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: David S. Resnick Leena H. Karttunen	Date: December 15, 2003	No. of Pages: (including this page) 6	

Comments:

Practitioner's Docket No. 057878-10

PATENT

RECEIVED
16 DEC 2003
Legal Staff
International Division

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Chvatchko et al.
Application No.: 10/204,387
Filed: 01/30/2003
For: USE OF IL-18 INHIBITORS

Group No.: 1645
Examiner:

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following paper is being facsimile transmitted the U.S. PTO (703-308-6459) shown below:

Petition and Request for Corrected Filing Receipt (1 pg.);
COPY – Postcard (1 pg.);
COPY – Express Mail Certificate (1 pg.); and
COPY – Filing Receipt (2 pp.).

Date 12/15/03

Melissa Kruggel

Signature of person mailing paper

Original of the transmitted document will be sent by:

o First Class Mail o Overnight Mail o Hand Delivery x This transmission will be the only form of delivery of this document

IF YOU DO NOT RECEIVE ALL OF THESE PAGES, PLEASE CONTACT THE FAX OPERATOR AS SOON AS POSSIBLE AT: (617) 345-1246. THANK YOU.

CONFIRMATION: DATE SENT _____ TIME _____ BY _____

INTEROFFICE TO: o Albany o Boston o Buffalo o Garden City o Hartford o Manchester o New York City o Northern Virginia o Orange County o Philadelphia o Providence o Rochester o San Francisco o Washington

To:	Company	Fax #:	Telephone #:
1) ATTN: James Thomson	U.S Patent and Trademark Office	(703) 308-6459	

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: David S. Resnick Leena H. Karttunen	Date: December 15, 2003	No. of Pages: (including this page) 6	Client/Matter: 057878-10
User #: 7466	Ext: 6057	Disbursement Amount: $	

BOS1336693.1

Practitioner's Docket No. 057878-10 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Chvatchko et al.
Application No.: 10/204,387 Group No.: 1645
Filed: 01/30/2003 Examiner:
For: USE OF IL-18 INHIBITORS
U.S. PTO
PETITIONS
(703)-308-6459
ATTN: JAMES THOMSON

PETITION AND REQUEST FOR CORRECTED FILING RECEIPT

1. Further to our phone conversation of December 12, 2003, attached is a copy of the postcard and Express Mail label as proof of submission of the Oath/Declaration on January 30, 2003, not on January 24, as noted on the Notice of Acceptance mailed May 5, 2003. Accordingly, this is a petition to correct the filing date of the above-identified application to reflect the correct date of receipt of the Oath/Declaration as shown in the evidence provided.

2. Also attached is a copy of the official filing receipt received from the PTO in the above application for which issuance of a corrected filing receipt is respectfully requested.

3. There are errors with respect to the following two entries, which is incorrectly entered.

Error(s) in	*Correct data*
1. Filing Date	1. 01/30/2003
2. Foreign Application:the Second Listed EPO number should be corrected	2. 00103590.6

Date: 12/15/2003

David S. Resnick (34,235)
Leena H. Karttunen (Under 37 CFR §10.9(b))
Nixon Peabody LLP
101 Federal Street
Boston, MA 02110, U.S.
617-345-6057/1367
Customer No. 26248

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory; Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

FAXED
facsimile transmitted to the Patent and Trademark Office, (703) 308-6459

Melissa Kruggel

Date: 12/15/03

** Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

© 2003 Matthew Bender & Company, Inc., a member of the LexisNexis Group.

EV 175417230 US

Mailing Label
Label 11-F June 2002

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Post Office To Addr ss e

ORIGIN (POSTAL USE ONLY)			
PO ZIP Code	Day of Delivery ☐ Next ☐ Second	Flat Rate Envelope ☐	
Date In Mo. Day Year	☐ 12 Noon ☐ 3 PM	Postage $	
Time In ☐ AM ☐ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $	

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature
☐ WAIVER OF SIGNATURE [illegible]		
NO DELIVERY ☐ Weekend ☐ Holiday		

CUSTOMER USE ONLY
METHOD OF PAYMENT:
Express Mail Corporate Acct. No. X022021

Federal Agency Acct. No. or Postal Service Acct. No.

NP Ref. No.: 057878-10
FROM: (PLEASE PRINT) PHONE 617 345 1000
David S. Resnick
NIXON PEABODY LLP
101 FEDERAL ST FL 13
12TH & 13TH FLOOR
BOSTON MA 02110-1832

TO: (PLEASE PRINT) PHONE ( )
BOX PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

PRESS HARD.
You are making 3 copies.
FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com
EMS

52/ 200 F:02

EV 175417230 US

Customer Copy
Label 11-F June 2002

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)			
PO ZIP Code 02101	Day of Delivery ☐ Next ☐ Second	Flat Rate Envelope ☐	
Date In Mo. Day Year 01 30 03	☐ 12 Noon ☐ 3 PM	Postage $ 1.36	
Time In 1645 ☐ AM ☐ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee	
Weight lbs. 7 ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $ 1.36	

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature
☐ WAIVER OF SIGNATURE [illegible]		
NO DELIVERY ☐ Weekend ☐ Holiday		

BOSTON MCCORMACK STA. JAN 30 2003 USPS

CUSTOMER USE ONLY
METHOD OF PAYMENT:
Express Mail Corporate Acct. No. X022021-002

Federal Agency Acct. No. or Postal Service Acct. No.

NP Ref. No.: 057878-10
FROM: (PLEASE PRINT) PHONE 617 345 1000
David S. Resnick
NIXON PEABODY LLP
101 FEDERAL ST FL 13
12TH & 13TH FLOOR
BOSTON MA 02110-1832

TO: (PLEASE PRINT) PHONE ( )
BOX PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

Mailing Date: 1/30/03
Client: Serono
Inventors: Chvatchko et al.
Serial No.: 10/204,387
Filing Date: To be assigned
(International - PCT/EP01/01867 - Filed 02/20/01)

Attorney/Sec: DSR/LHK/MCK
Docket No.: 057878-10
Patent No.:
Grant Date:

The dating stamp of the Patent and Trademark Office hereon will be taken as the date of filing of:

Transmittal Form (PTO-1390) (1 copy, 3 pp);
COPY – Notification of Missing Requirements (2 pp.);
Declaration and Power of Attorney for Novick, Rubinstein, Chvatchko, Plater-Zyberk, Van Deventer, Dinarello and Kim;
Limited Recognition Under 37 CFR §10.9(b);
Express Mail Certificate – EV175417230US (1 pg.); and
Return Receipt Postcard.

Due Date:

D17 Rec'd PCT/PTO 30 JAN 2003

RECEIVED
FEB 10 2003
NIXON PEABODY LLP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/204,387	01/24/2003	1645	3400	057878-000010	15	43	13

CONFIRMATION NO. 1269

David S Resnick
Nixon Peabody
101 Federal Street
Boston, MA 02110

RECEIVED
MAY 0 8 2003
NIXON PEABODY LLP

FILING RECEIPT

OC000000009954867

Date Mailed: 05/05/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will b notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yolande Chvatchko, Confignon, SWITZERLAND;
Charles Dinarello, Boulder, CO;
Christine Plater-Zyberk, Geneva, SWITZERLAND;
Santer Van Deventer, Haarlem, NETHERLANDS;
Menachem Rubinstein, Givat Shmuel, ISRAEL;
Daniela Novick, Rehovot, ISRAEL;
Soo-Hyun Kim, Denver, CO;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/01867 02/20/2001

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00103597.1 02/21/2000
EUROPEAN PATENT OFFICE (EPO) 0103590.6 02/21/2000
EUROPEAN PATENT OFFICE (EPO) 00121651.4 10/04/2000
EUROPEAN PATENT OFFICE (EPO) 00125633.8 11/23/2000

Projected Publication Date: 08/14/2003

Non-Publication Request: No

Early Publication Request: No

Title

Use of il-18 inhibitors

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

Th applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	5834
RECIPIENT ADDRESS	617 345 1300
DESTINATION ID	
ST. TIME	12/15 16:15
TIME USE	02'15
PGS.	6
RESULT	OK

14 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Bingham McCutchen
Three Embarcadero Center 18th Floor
San Francisco CA 94111-4067

In re Application of TITTLE et al. Serial No.: 10/204,419 PCT No.: PCT/US00/31692 Int. Filing Date: 17 November 2000 Priority Date: 19 November 1999 Attorney's Docket No.: TW2001.00 For: TR3-SPECIFIC BINDING AGENTS AND METHODS FOR THEIR USE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 August 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $445 has been paid. The required petition fee of $640 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **29 August 2002**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 15, 2008

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/204419 Patent No.: 7249005 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: _____

2123

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 122304

JAN 3 2005

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

In re Application of:	:	
PETER BUSCH et al.	:	
Serial No.: 10/204,420	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: August 29, 2002	:	
Attorney Docket No.: **EPPI0017U-US**	:	

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

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

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

The request is **APPROVED**.

All future communications from the Office will be directed to Cohen, Pontani, Lieberman & Pavane, at the below address, until otherwise notified by applicant.

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

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

cc: COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
NEW YORK, NY 10176

11/4/03
CO

EPPING HERMANN & FISCHER

PATENTANWÄLTE - EUROPEAN PATENT ATTORNEYS - EUROPEAN TRADEMARK ATTORNEYS

OIPE JC174
NOV 17 2004
PATENT & TRADEMARK OFFICE

Epping Hermann & Fischer • Ridlerstraße 55 • D-80339 München

Neifeld, Richard A.
Plaza 1, Suite 1001
2001 Jefferson Davis Highway
Arlington, VA 22202
U.S.A.

Wilhelm Epping, Dr.-Ing.
Uwe Hermann, Dipl.-Ing.
Volker Fischer, Dipl.-Ing.
Richard Schechtner, Dipl.-Phys.
Alwin Rietzler, Dipl.-Ing.

FAX ONLY

Your Ref.:	Our Ref.:	Munich,
EPPI0017U/US	P2000,0060 US N	November 4, 2003 (AR/KI)

RECEIVED WITH THANKS
NOV 04 2003 CD
NEIFELD IP LAW, PC

U.S. Patent Application No. 10/204,420
Assignee: Fujitsu Siemens Computers GmbH

Ladies and Gentlemen:

Please note that our client Fujitsu Siemens Computers GmbH informed us that the above-mentioned patent application should be transmitted to the following law firm:

Cohen, Pontani, Lieberman & Pavane
Attn. Mr. Langer
551 Fifth Avenue
New York, N.Y. 10176
UNITED STATES OF AMERICA

Please take care that no loss of rights will occur during the transmittal of files.

Thank you for your cooperation.

Please acknowledge safe receipt of this letter.

Very truly yours,

A. Rietzler

Alwin Rietzler
Patent Attorney

cc: Patent Attorney Mr. Langer (Cohen, Pontani, Lieberman & Pavane)

Telephone: +49-89-5003290
Telefax: +49-89-50032999
E-Mail: info@epping-patent-attorneys.de

Postal Address: P.O. Box 12 10 26, D-80034 München
Office Address: Ridlerstraße 55, D-80339 München

Bank: Account No. 383 89 530, HypoVereinsbank München (Bank Code: 700 202 70)
VAT: DE812867287

This fax was received by GFI FAXmaker fax server. For more information, visit: http://www.gfi.com

1741
JFW

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

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

OIPE JC174
NOV 17 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

RE: EPPI0017U/US
Application Serial No.: 10/204,420
Filed: 08/29/02
Title: Circuit Arrangement for Measuring the Current Consumption of a Transistor Controlled Load
Applicant: Fujitsu Siemens Computers, GmbH
Inventor: Busch

SIR:

Attached hereto for filing are the following papers:

COPY OF DATE-STAMPED FILING RECEIPT SHOWING FILING THEREOF ON NOVEMBER 13, 2003;TRANSMITTAL LETTER/AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT (IN DUPLICATE); REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS; AND COPY OF LETTER FROM EPPING HERMANN & FISCHER TO NEIFELD IP LAW, PC ON BEHALF OF FUJITSU SIEMENS COMPUTERS GMBH REQUESTING FILE TRANSFER

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

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

31518
PATENT TRADEMARK OFFICE

11/16/04
Date

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

Printed: November 16, 2004 (12:24pm)
Y:\Clients\Z - FORMER CLIENTS\Epping\EPPI0017\Drafts\TransLtr_041116.wpd

11/4/03
CB

OIPE JC174
NOV 17 2004
PATENT & TRADEMARK OFFICE

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001, Crystal Plaza 1
Arlington, VA 22202

Tel: 703-415-0012
Fax: 703-415-0013
Email: meifeld@Neifeld.com

THIS IS A FILING RECEIPT

Neifeld IP Law Docket No.: EPPI0017U/US
US Application Serial No.: 10/204420
US Application Filed: 08/29/02
Inventor: Peter Busch
Title: Circuit arrangement for measuring the current consumption of a transistor-controlled load

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

TRANSMITTAL LETTER/AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT (IN DUPLICATE)
REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS
COPY OF LETTER FROM EPPING HERMANN & FISCHER TO NEIFELD IP LAW, PC ON BEHALF OF FUJITSU SIEMENS COMPUTERS GMBH REQUESTING FILE TRANSFER

OIPE JC34
NOV 13 2003
PATENT & TRADEMARK OFFICE

Y:\Clients\Epping\EPPI0017\Drafts\FR_031107.wpd

REQ_EPPI0017UUS_031114 CB

NOV 17 2004
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/204,420
Filing Date	08/29/02
First Named Inventor	Peter Busch
Art Unit	1741 2829
Examiner Name	Unknown
Attorney Docket Number	EPPI0017U-US

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

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 31518

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: per client instruction in attached letter, to forward application to another firm.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm or Individual Name	Cohen, Pontani, Lieberman & Pavane				
Address	551 Fifth Avenue				
Address					
City	New York	State	NY	Zip	10176
Country	USA				
Telephone				Fax	
Name	Richard A. Neifeld				
Signature		Registration No.	35,299		
Date	11/13/03	Telephone No.	703-415-0012		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 15 2003

TECHNOLOGY CENTER 2100

Paper No. 10

Richard A. Neifeld
NEIFELD IP LAW, P.C.
Plaza 1, Suite 1001
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of:	)	
Demharter	)	
Application No. 10/204,421	)	**DECISION ON REQUEST FOR**
Filed: August 29, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: ARRANGEMENT AND METHOD FOR REDUCING THE PROCESSING TIME OF A DATA PROCESSING DEVICE	)	

This is a decision on the Request To Withdraw from Representation filed November 13, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The 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 13, 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.

For James R. Matthews

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

cc: COHEN, PONTANI, LIEBERMAN & PAVANE
551 Fifth Avenue
New York, NY 10176

20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
Honkura et al.	:	
Application No.: 10/204,426	:	
PCT No.: PCT/JP02/06548	:	
Int. Filing Date: 28 June 2002	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 227573US0PCT	:	
For: Alloy For Bonded Magnet, Isotropic Magnet	:	
Powder As Well As Anisotropic Powder And	:	
Their Production Method As Well As Bonded...	:	

This is a decision on applicants' "Petition Under 37 C.F.R. 1.181" filed on 22 April 2004.

BACKGROUND

This international application was filed on 28 June 2002 and claimed no earlier priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 08 January 2004. Consequently, the thirty month period for payment of the basic national fee in the United States will expire as of midnight on 28 December 2004.

On 30 January 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States because "Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2))."

DISCUSSION

Petitioner requests that the Notification of Abandonment be withdrawn. Counsel argues that

> Applicants wish to respectfully point out that the 30 month date from the earliest claimed priority has not yet expired. Since the International Application did not claim a priority, the 30 month time period is calculated from the International Filing Date of June 28, 2002. Thus, the 30 month deadline will not expire until December 28, 2004.

Review of the record reveals that this international application has not become abandoned with respect to the national stage in the United States, for the reasons articulated by petitioner. Accordingly, the Notification of Abandonment mailed on 30 January 2003 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

The $130.00 petition fee paid on 31 March 2003 was not required and is being credited to counsel's Deposit Account No. 15-0030.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 April 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

03 FEB 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Neifield IP Law, PC
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

In re Application of KORNMAYER	:	
U.S. Application No.: 10/204,438	:	COMMUNICATION
Int. Application No.: PCT/DE01/00774	:	
Int. Filing Date: 01 March 2001	:	
Priority Date: 21 March 2000	:	
Attorney Docket No.: EPPI0015U/US	:	
For: PORTABLE COMPUTER SYSTEM	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 01 March 2001, applicant filed international application PCT/DE01/00774, which claimed priority of an earlier Germany application filed 21 March 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 27 September 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2002 (21 September 2002 was a Sunday).

On 30 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and was assigned U.S. Application Number 10/204,438.

On 18 December 2002, applicant filed a copy of the national stage papers filed on 30 August 2002.

DISCUSSION

Upon review of the application files, it is concluded that the duplicate papers filed 18 December 2002 were erroneously processed as a purported new national stage application and

assigned U.S. Application Number 10/333,516. The end result for an international application designating the United States is a single U.S. national stage application. Therefore, the existence of two U.S. national stage applications for a single international application would be improper.

CONCLUSION

For the reasons above, the serialization of U.S. Application Number 10/333,516 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including: (1) placing the papers found in U.S. Application Number 10/333,516 in the application file for U.S. Application Number 10/204,438 and (2) vacating the serialization of U.S. Application Number 10/333,516.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

27 JUL 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF
1001 G Street NW, 11th Floor
Washington, DC 20001-4597

In re Application of
RAMAKRISHNAN, Shyam
U.S. Application No.: 10/204,449
PCT No.: PCT/EP01/03016
Int. Filing Date: 16 March 2001
Priority Date: 16 March 2000
Attorney Docket No.: 004974.00796
For: REGULATION OF HUMAN G PROTEIN-COUPLED RECEPTOR

DECISION

This is a decision on applicant's "Petition Under 37 C.F.R. §1.181 to Withdraw Holding of Abandonment" filed on 11 December 2003 and again via facsimile on 08 June 2004. No fee is required.

BACKGROUND

On 21 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a computer readable form (CRF) sequence listing diskette was required. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 24 November 2003, the DO/EO/US mailed a Notice of Abandonment stating that the above-captioned application was abandoned because applicant failed to respond to the Form PCT/DO/EO/905 mailed 21 October 2002 within the time period set therein.

On 11 December 2003, applicant filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, a copy of counsel's docket record for 21 January 2003.

On 08 June 2004, applicant resubmitted the petition to withdraw the holding of abandonment.

DISCUSSION

The petition filed 11 December 2003 was located in the above-captioned application. Accordingly, the postcard receipt for those documents filed on 08 June 2004 will not be addressed.

Applicant claims that the Form PCT/DO/EO/905 mailed 21 October 2002 was never received. The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) 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 practitioners' statement.

In the petition, applicant claims that "[a] Notification of Missing Requirements under 35 U.S.C. § 371 apparently was mailed on October 21, 2002, but a search of the file jacket and docket records indicate that the Notification was not received." This statement satisfies item (1) and (2) above.

Applicant also states in the petition that "[h]ad the Notification been received, it would have been entered on out patent docket for December 21, 2002. We have been unable to locate a copy of our docket for this date. However, a copy of our patent docket for January 21, 2003 is attached." Applicant included a copy of the docket record for 21 January 2003.

This evidence is insufficient to prove nonreceipt of an Office communication. As stated in the section 711.03(c) of the MPEP, in part:

> 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.

Here, the Form PCT/DO/EO/905 mailed 21 October 2002 provided a two-month period for reply. As such, the docket report for 21 December 2002 is required to establish nonreceipt of an Office action. The docket record for 21 January 2003 does not satisfy this requirement.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No fee is required.

Applicant may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(a) or (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645

2 3 NOV 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

BANNER & WITCOFF, LTD.
1001 G Street, NW, 11th Floor
Washington, DC 20001-4597

In re Application of	:	
RAMAKRISHNAN, Shyam	:	
U.S. Application No.: 10/204,449	:	
PCT No.: PCT/EP01/03016	:	
Int. Filing Date: 16 March 2001	:	**DECISION**
Priority Date: 16 March 2000	:	
Attorney Docket No.: 004974.00796	:	
For: REGULATION OF HUMAN G	:	
PROTEIN-COUPLED RECEPTOR	:	

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed on 23 September 2004. No fee is required.

BACKGROUND

On 27 July 2004, a decision dismissing applicant's petition to withdraw the holding of abandonment for failure to receive an office action was mailed. The decision noted that a copy of counsel's docket records showing all applications for which a response was due on 21 December 2002 was needed for a grantable petition.

On 23 September 2004, applicant submitted the instant response.

DISCUSSION

In the petition filed 11 December 2003, applicant claims that they have been unable to locate a copy of the docket for the date on which the response was due, *i.e.*. 21 December 2002. Instead, applicant submitted a copy of the docket record for 21 January 2003 noting that "[t]his is the record in which a response to the Notification of Missing Requirements (with a one-month extension of time) would have been docketed had the Notification been received."

The prior decision mailed 27 July 2004 dismissed applicant's petition noting that a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed to establish nonreceipt of an Office action. In this case, the docket report for 21 December 2002 was required to establish nonreceipt of an Office action.

In the renewed petition, applicants contend that the docket record for 21 January 2003 is sufficient to meet the requirements of the MPEP because "[t]his is the record in which a response to the Notification of Missing Requirements mailed October 21, 2002

(with a one-month extension of time) would have been docketed had the Notification been received. Had the Notification of Missing Requirements been received, it would have appeared on the January 21, 2003 docket as due with a one-month extension of time because a response to the Notification had not been filed."

Applicant's renewed petition has been carefully considered and dismissed.

Applicant argues that the docket record for 21 January 2003 is sufficient to show nonreceipt of the Notification of Missing Requirements mailed 21 October 2002. However, applicant has not yet explained why the docket record for 21 December 2002 could not be found. An affidavit or declaration by the law firm's docket clerk is required to explain why this docket record could not be provided. Applicant must also further explain in the affidavit or declaration how the docket record for 21 January 2003 would be a suitable substitute to meet the requirements outlined in section 711.03(c) of the MPEP. For example, if a response was not filed does the docket automatically update to show that a response was due with a one-month extension? Does it also update automatically after two months?

CONCLUSION

For the reason discussed above, applicants' renewed petition is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Applicant may also consider filing a petition to revive pursuant to 37 CFR 1.137(a) or (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

14 JUN 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

BANNER & WITCOFF, LTD.
1001 G Street, NW, 11th Floor
Washington, DC 20001-4597

In re Application of
RAMAKRISHNAN, Shyam
U.S. Application No.: 10/204,449
PCT No.: PCT/EP01/03016
Int. Filing Date: 16 March 2001
Priority Date: 16 March 2000
Attorney Docket No.: 004974.00796
For: REGULATION OF HUMAN G PROTEIN-COUPLED RECEPTOR

DECISION

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed via facsimile on 02 June 2005.

BACKGROUND

On 23 November 2004, a decision dismissing applicant's petition to withdraw the holding of abandonment was mailed due to applicant's failure to provide a copy of the docket record for the time period where a response was required.

On 24 January 2005, applicant purportedly filed a response which was accompanied by, *inter alia*, a copy of the docket records for 20 December 2002 and 23 December 2002 for Lisa M. Hemmendinger and a declaration by Eric Cherry.

On 02 June 2005, applicant resubmitted the petition purportedly filed 24 January 2005 along with a copy of the date-stamped postcard receipt for that filing.

DISCUSSION

Response Filed 24 January 2005

The response purportedly filed 24 January 2005 was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. 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.

Here, applicant provided a copy of the date-stamped postcard receipt for documents submitted on 24 January 2005. The postcard receipt clearly identified the application by the application number, applicants, and title. The postcard receipt indicates that a "Renewed Petition Under 37 CFR 1.181" and docket records were received in the USPTO. The postcard receipt is stamped "OIPE Jan 24 2005" across its face.

Accordingly, applicant has provided *prima facie* evidence that a renewed petition was filed in the above-captioned application on 24 January 2005.

Renewed Petition to Withdraw Holding of Abandonment

In the renewed petition, applicant has provided a copy of the computer docket report for Lisa M. Hemmendinger for 20 December 2002 and 23 December 2002. Applicant also provided a declaration by Eric Cherry, the Docketing Manager at Banner & Witcoff, Ltd. Mr. Cherry discussed how correspondence is logged into the computerized document management system at the law firm and how this system keeps attorneys apprised of all due dates.

Counsel explains that the 20 December 2002 docket would have contained a reminder for responding to the Notification of Missing Requirements and the 23 December 2002 would have indicated an Action Due Date of 22 December 2002. This explanation is acceptable.

However, a single computer docket record for one attorney is not sufficient to show a nonreceipt of an Office action. The Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) could easily have been docketed to another attorney in the law firm by mistake.

In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, petitioner must also provide a copy of a computer log for all U.S. actions docketed for all Banner & Witcoff, Ltd. attorneys during this same period.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. A copy of the global

docket record for the dates indicated above is required for a grantable petition. Extension of time may be available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 AUG 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

#12

BANNER & WITCOFF, LTD.
1001 G Street, NW, 11th Floor
Washington, DC 20001-4597

In re Application of	:	
RAMAKRISHNAN, Shyam	:	
U.S. Application No.: 10/204,449	:	
PCT No.: PCT/EP01/03016	:	
Int. Filing Date: 16 March 2001	:	**DECISION**
Priority Date: 16 March 2000	:	
Attorney Docket No.: 004974.00796	:	
For: REGULATION OF HUMAN G	:	
PROTEIN-COUPLED RECEPTOR	:	

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed on 08 August 2005.

BACKGROUND

On 14 June 2005, a decision dismissing applicant's petition to withdraw the holding of abandonment was mailed. Applicant had still not provided a copy of the docket records for all attorneys in the law firm for the time period where a response was required.

On 08 August 2005, applicant filed the subject response which was accompanied by, *inter alia*, a copy of the law firm docket records for the period 21-23 December 2002.

DISCUSSION

The above-captioned application was abandoned for failure to respond to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) mailed 21 October 2002.

Applicants claim that the Form PCT/DO/EO/905 was never received. However, applicants have not provided all the evidence required to show that the office action was not received. Specifically, applicants failed to provide a copy of the docket record for all attorneys in the law firm showing all applications for which a response was due on 21 December 2002. *See* § 711.03(c) MPEP.

In this renewed petition, applicants have provided a copy of the entire firm's docket reports for 21 - 23 December 2002. (Certain portions redacted). A review of

this docket record verifies that the Form PCT/DO/EO/905 mailed in the above-captioned application on 21 October 2002 was not received.

Applicants have now met all elements required to establish nonreceipt of an Office action.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment mailed 24 November 2003 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a new Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a CRF diskette of the Sequence Listing is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMER
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 N
10/204,452	12/04/2002	Nobuaki Ariji	P22751	3363

7055 7590 10/19/2004

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
NGUYEN, JIMMY T

ART UNIT	PAPER NUMBER
3725	

DATE MAILED: 10/19/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPER
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK (
WASHINGTON, DC
www.usp

Serial No.: 10/204, 452

Applicant: Nobuaki Ariji (as amended by Petition)

Filed: September 05, 2002

Title: Oil Hydraulic Press Stop Control Method, Oil Hydraulic Press Stop Controller, Oil Hydraulic Press Speed Switching Valve Fault Detection Method And Oil Hydraulic Press Speed Switching Valve Fault Detector

Decision On Petition Under 37 C.F.R. 1.48 (b)

This is a response to applicant's Petition under 37 C.F.R. 1.48(b) filed August 16, 2004 requesting an amendment to the named inventors.

The Petition sets forth the proper information, is signed by an attorney of record, and includes the requisite fee.

Accordingly, the Petition is GRANTED. The named inventor is now NOBUAKI ARIJI.

Allen M. Ostrager
SPE, Art Unit 3725

31 MAR 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick W. Hughey
IPSOLON LLP
805 SW Broadway #2740
Portland, Oregon 97205

In re Application of	:	
LEISTEN et al.	:	
U.S. Application No. 10/204,482	:	DECISION ON PETITION
PCT No.: PCT/GB01/03855	:	
Int. Filing Date: 29 August 2001	:	
Priority Date: 01 September 2000	:	
Attorney Docket No.: 1085-045-PWH	:	
For: METHOD OF MANUFACTURING AN INDUCTOR		

This decision is in response to applicants' Petition under 37 CFR 1.137(b) and Petition under 37 CFR 1.47(a) filed 18 February 2004. The requisite $1330 petition fee for filing of a petition under 37 CFR 1.137(b) and the requisite $130 for a petition under 37 CFR 1.47(a) have been submitted. The above-captioned national stage application became abandoned for failure to submit an acceptable oath or declaration within the time period set forth in the "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) mailed 17 October 2002.

BACKGROUND

On 29 August 2001, applicants filed international application PCT/GB01/03855 which claimed a priority date of 01 September 2000. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 01 March 2003.

On 19 August 2002, applicants filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 17 October 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 August 2003, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 23 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 17 October 2002 within the time period set therein.

On 18 February 2004, applicants filed the present petition under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

The above-identified application was abandoned for failure to respond to the Notification of Missing Requirements mailed 17 October 2002.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicants submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of joint-inventor Stuart Dodds must be grantable.

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

Applicants have satisfied Items (1)-(4) under 37 CFR 1.137(b).

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

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

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

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

Anthony Smith

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

31 MAR 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

Stuart Dodds
4 Fawden House Farm
Longhurst
Morpeth,
Northumberland,
NE61 #LQ

In re Application of
LEISTEN et al.
U.S. Application No. 10/204,482
PCT No.: PCT/GB01/03855
Int. Filing Date: 29 August 2001
Priority Date: 01 September 2000
Attorney Docket No.: 1085-045-PWH
For: METHOD OF MANUFACTURING AN INDUCTOR

Dear Mr. Dodd

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

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

Counsel of Record:
Patrick W. Hughey
IPSOLON LLP
805 SW Broadway #2740
Portland, Oregon 97205

UNITED STATES 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
AUG 30 2006
OFFICE OF PETITIONS

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

Sterne Kessler Goldstein & Fox
1100 New York Avenue N W
Suite 600
Washington, DC 20005-3934

In re Application of Mizuno et al. :
Application No. 10/204,487 : Decision on Petition
§371(c) Date: January 3, 2003 :
Attorney Docket No. 0652.2550000 :

This is a decision on the petition under 37 CFR 1.181, filed December 5, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed April 21, 2005. The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained.

A reply to the Office action was not matched with the file. As a result, a Notice of Abandonment was mailed November 10, 2005.

Petitioner contends a timely reply was filed in response to the April 21, 2005 Office action. In support, petitioner has provided a copy of a stamped postcard receipt establishing a reply was filed with the Office on Monday, May 23, 2005.

Petitioner has established a timely reply was filed May 23, 2005. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1652 will be informed of the instant decision and the examiner will consider the merits of the May 23, 2005 reply in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

27 OCT 2003

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Howery Simon Arnold & White
CityPoint
1 Ropemaker Street
London EC2Y 9HS
United Kingdom

In re Application of CARSTENSEN et al	:	
U.S. Application No.: 10/204,488	:	
PCT Application No.: PCT/EP01/01781	:	
Int. Filing Date: 17 February 2001	:	DECISION
Priority Date Claimed: 21 February 2000	:	
Attorney Docket No.: 01013.0249.PCUS00	:	
For: PLANAR ELEMENT AND METHOD FOR	:	
PRODUCING A PLANAR ELEMENT	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 29 September 2003.

BACKGROUND

On 17 February 2001, applicant filed international application PCT/EP01/01781, which claimed priority of an earlier Germany application filed 21 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 September 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 21 August 2002.

On 21 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 November 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/EP01/01781 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 29 September 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notice of Defective Translation (Form PCT/DO/EO/913) indicating that the purported translation of the international application filed 21 August 2002 does not contain a translation of the original claims.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

30 JUN 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christian D. Abel
Postboks 333 Sentrum
Bergen, 5804
Norway

In re Application of WERNER, Per Gunnar Application No.: 10/204,490 PCT No.: PCT/NO01/00070 Int. Filing Date: 22 February 2001 Priority Date: 22 February 2000 Docket No.: 411201 For: SKIN SUPPORT, APPARATUS AND METHOD FOR USE IN THE EXCISION OF GRAFTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 10 May 2004 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). A declaration and the petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. Applicant indicates that the declaration was earlier submitted on 23 July 2003 and 02 December 2003, but no evidence of these submissions can be found in the record.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 10 May 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT M. MCDERMOTT, ESQ.
1824 FEDERAL FARM ROAD
MONTROSS VA 22520

COPY MAILED

FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Herman Wouter Van Rumpt	:	
Application No. 10/204,493	:	DECISION ON PETITION
Filed: August 20, 2002	:	
Attorney Docket No. ItoM 020725	:	

This is a decision on the petition under 37 CFR 1.137(a), filed September 15, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice Of Non-Compliant Amendment (Notice) mailed May 10, 2005, which set a time period of one month from the mailing date of the Notice.

Petitioner asserts that the Notice dated May 10, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice 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 had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petition may request a refund of the petition fee by writing to the Office of Finance, Refund Section along with a copy of this decision. Additionally, petitioner is encouraged to note the USPTO FY 2007 Fee Schedule.

This application is being referred to the Technology Center technical support staff of Art Unit 2618 for re-mailing the Notice of May 10, 2005. The period for reply will run from the mailing date of the Notice.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

03 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Striker, Striker & Stenby
103 East Neck Road
Huntingon, NY 11743

In re Application of	DECISION ON
KIENZLE et al	
Application No.: 10/204,519	PAPERS FILED
PCT No.: PCT/DE01/04624	
Int. Filing Date: 07 December 2001	UNDER 37 CFR 1.42
Priority Date: 21 December 2000	
Attorney's Docket No.: 2257	
For: METHOD AND DEVICE FOR DETECTING THE FLOW RATE OF A FLOWING MEDIUM	

This is a decision on the papers filed on 06 January 2003.

On 07 December 2001, applicant filed international application PCT/DE01/04624, which claimed priority of an earlier application filed on 21 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 June 2002. Accordingly, the twenty month period for paying the basic national fee in the United States expired at midnight on 21 August 2002.

On 21 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and a translation of the international application as required by 35 U.S.C. 371(c)(2). An oath or declaration was not filed.

On 23 October 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for submitting the oath or declaration later that 30 months from the priority date was required. The notification set a two-month time limit in which to respond.

On 06 January 2003, applicant filed a declaration, the surcharge, and a petition and fee for a one-month extension of time. The above application and papers have been reviewed and found to be in compliance with 37 CFR 1.42.

The papers filed under 37 CFR 1.42 are ACCEPTED. The declaration is accepted under 37 CFR 1.42.

The application has an international filing date of 07 December 2001 under 35 U.S.C. 363; and a date **06 January 2003** of under 35 U.S.C. 371.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Striker Striker & Stenby
103 East Neck Road
Huntington NY 11743

COPY MAILED

OCT 03 2005

OFFICE OF PETITIONS

In re Application of
Wolfgang Kienzle et al.
Application No. 10/204,519
Filed: January 6, 2003
Attorney Docket No. 2257
Title: METHOD AND DEVICE FOR DETERMINIG THE THROUGHPUT OF A FLOWING MEDIUM

DECISION ON PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on August 27, 2004.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 28, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 29, 2004. A Notice of Abandonment was mailed August 12, 2004.

With the present petition, Petitioner has included an amendment, a one-month extension of time, and a certificate of facsimile transmission which bears a date of March 1, 2004. It is noted that February 29, 2004 fell on a Sunday.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received, pursuant to 37 C.F.R. §1.8.

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

The application file is being forwarded to Technology Center 2800 for further processing of the amendment submitted concurrently with this petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,571,442
Van Der Spuy
Issue Date: August 4, 2009
Application No. 10/204,543
Filed: August 22, 2002
Attorney Docket No. 035810-0102
Title: SYSTEMS AND METHODS FOR APPLICATION PROGRAMMING USING PERSISTENT OBJECTS

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifteen (815) 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 eight hundred fourteen (814) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 23, 2005 and ends on February 26, 2007, the day before the RCE was filed, and is 553 days. See 35 U.S.C. 154(b)(1)(B)(i). The amount of overlap is 115 days. As such, the patent term adjustment is 814, not 815 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred fourteen (814)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,571,442 B2

DATED : **August 4, 2009** **DRAFT**

INVENTOR(S) : Van Der Spuy

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 376 days

Delete the phrase "by 376 days" and insert – by 814 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

ROBERTS, MLOTKOWSKI & HOBBES
P.O. BOX 10064
MCLEAN VA 22104-8064

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Roland Hahn	:	
Application No. 10/204,545	:	DECISION GRANTING PETITION
Filed: December 16, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 740123-435	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an previously filed 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 February 3, 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 Technology Center AU 1734.

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
www.uspto.gov

Mailed: 5/16/05

dss
Paper Number

In re application of
MYRIAM OUDART et al.
Serial No. 10/204,561
Filed: August 22, 2002
For: PROCESS FOR PRODUCING CONNECTION BUMPS ON A PRINTED CIRCUIT

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed October 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed September 09, 2004, for failure to pay the ISSUE and PUBLICATION FEE be withdrawn since the applicant did not receive the Notice of Allowance mailed April 08, 2004.

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, MPEP 711.03(c). 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 letter, mailed April 08, 2004. The evidence provided includes a statement by the petitioner that the Office letter, mailed April 08, 2004 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 was not received. Also provided is a copy of the attorney's application docket records where the Office letter 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 for prompt remailing of the Notice of Allowance originally mailed April 08, 2004 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Oblon, Spivak, McClelland
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

DEC 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,562,032
Abbosh et al.
Issue Date: July 14, 2009
Application No. 10/204,569
Filed: February 13, 2003
Attorney Dkt. No. 12587-036001
Title: Ordering Items of Playable Content Or Other Works

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed August 27, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred eighty-seven (887) days to one thousand two hundred thirty-six (1236) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 14, 2009, the above-identified application matured into US Patent No. 7,562,032 with a patent term adjustment of 887 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). 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 pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees assert entitlement to an

additional 640 days of patent term adjustment pursuant to 37 CFR § 1.703(b). Thus, patentees request that the determination of patent term adjustment be increased to a total of one thousand two hundred thirty-six (1236) days (the sum of the period of three-year delay (1247 days) and the period of examination delay (989 days) minus applicants' delay (102 days) minus overlap (291 days) minus time consumed by the request for continued examination (RCE) pursuant to 37 CFR 1.703(b)(1) (607 days). Patentees do not dispute the 102-day reduction for applicants' delay.

The Office finds that as of November 14, 2007, the day before the filing of the request for continued examination (RCE) on November 15, 2007, the application was pending three years and 639 days after its filing date (February 14, 2006 to November 14, 2007). At the time of filing of the RCE on November 15, 2007, a period of adjustment of 962 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). At issue is whether patentee should accrue an additional 639 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 962 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 639-day period of delay in issuance of the patent overlaps with the period of 962 days of examination delay. 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, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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).

As such, the period for over 3 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 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, February 13, 2003 until November 14, 2007, the day before the filing of the RCE on

November 15, 2007. 962 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application. All of the 639 days for Office delay in issuing the patent overlap with the 962 days of Office delay accrued prior to submission of the RCE. Entry of both 639 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 962 days pursuant to 37 CFR §1.702(a)(1) for Office examination delay is neither permitted nor warranted. The Office did not delay 962 days and then delay another 639 days. As of the filing of the RCE on November 15, 2007, the greater period, 962 days, is the actual number of days issuance of the patent was delayed by the Office. An additional 27-day patent term adjustment was accorded subsequent to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent, having considered the 962 days of examination delay under 37 CFR 1.702(a)(1) that occurred prior to the filing of the RCE as well as the 27 days of examination delay under 37 CFR 1.702(a)(2) that occurred subsequent to the filing of the RCE, as well as the applicant delays of 102 days under 37 CFR 1.704.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
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

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Oday Abbosh	: DECISION ON REQUEST FOR
Patent Number	: 7562032	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/204,569	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1276** 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

JJGJR.: 07-06

Paper No: __

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

LINER YANKELEVITZ
SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES CA 90024

In re Application of	:	
Stillman	:	
Application No. 10/204,572	:	DECISION
Filing Date: 21 August, 2002	:	
Attorney Docket No.: Patent 26007.00154	:	

This is a decision on the petition filed on 19 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **DISMISSED without prejudice**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

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:

- the Examiner mailed a non-final Office action mailed on 4 November, 2005, with reply due absent extension of time on or before 4 February, 2006;
- Petitioner filed a reply–improvidently styled as "Amendment After Final Office Action"–on 4 April, 2006, along with, *inter alia*, a request and fee for extension of time–however, the amendment clearly was in reply to a non-final Office action and appears to have been a proper reply,[2] notwithstanding its improvident styling;
- the Examiner appears to have taken Petitioner at his word as to the "Amendment After Final," and she mailed an "Advisory Action" on 18 April, 2006;
- on 19 May, 2006, Petitioner filed the instant petition with fee, a reply in the form of a request for continued examination (RCE) and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, and made the statement of unintentional delay.
- the Examiner than mailed a Notice of Abandonment on 23 May, 2005;
- however, at this writing it appears that the record herein is incomplete and/or unclear, and that the application was and is pending, in that Petitioner replied to the non-final Office action, and–while an advisory action was mailed–there appears to have been neither an un-replied-to non-final Office action, nor a final Office action mailed to require a reply such as a Notice of Appeal, an RCE or an amendment *prima facie* placing the application in condition for allowance.

If Petitioner is aware that there is additional information to which this decision does not refer, Petitioner is requested to provide it by averment and documentary evidence in support thereof.

---

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

At that time, Petitioner may reassert the instant petition, or, alternatively, request withdrawal of the holding of abandonment under 37 C.F.R. §1.181 should Petitioner consider such a request proper in the premises.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Because the record herein is unclear as to the factual conditions existing at the time this petition was filed, Petitioner appears not to have satisfied the "statement and showing" requirements under the regulation as to whether a delay ever existed.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[9] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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.: 08-06

Paper No: __

LINER YANKELEVITZ
SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES CA 90024

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Stillman :
Application No. 10/204,572 : DECISION
Filing Date: 21 August, 2002 :
Attorney Docket No.: 16019.900154 :

This is a decision on the petition (renewed) filed on 23 July, 2006, now also requesting the withdrawal of the holding of abandonment, considered under 37 C.F.R. §1.181, in addition to previously alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.181 is **DISMISSED**; and the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- at first writing it appeared that the Examiner mailed a non-final Office action–that was how the entry was indicated in the Image File Wrapper (IFW) and remains so as of this writing[1]–on 4 November, 2005, with reply due absent extension of time on or before 4 February, 2006;

[1] The IFW entry indicated that the action was a "Non-Final Rejection" and the language of the the second page of the 4 November, 2005, Office action indicated that it was a "non-final action."

- Petitioner filed a reply (appearing to have been improvidently styled as "Amendment After Final Office Action," which is not a proper reply[2] to a final Office action)) on 4 April, 2006, along with, *inter alia*, a request and fee for extension of time;

- on 18 April, 2006, the Examiner mailed an Advisory Action;

- on 19 May, 2006, Petitioner filed the original petition with fee, a reply in the form of a request for continued examination (RCE) and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, and made the statement of unintentional delay.

- the Office mailed the Notice of Abandonment on 23 May, 2005;

- because as of the writing of the 17 July, 21006, decision dismissing the petition and seeking clarification from the Petitioner, it appeared that the record was incomplete and/or unclear,[3] Petitioner was invited to submit whatever papers he considered "proper in the premises" along with documentary evidence supporting his averments–Petitioner responded to the former but not the latter requirement, and now it is clear that;

  –the Office action in question was in fact a final Office action;

  –the after-final amendment was indeed that and it was not a proper reply;

  –the application went abandoned by operation of law after midnight 4 April, 2006;

- Petitioner now seeks withdrawal of the holding of abandonment–also remaining under consideration is the petition to revive (under 37 C.F.R. §1.137(b)) previously filed with the fee, RCE and fee and amendment as the submission under 37 C.F.R. §1.114.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] Again, both the IFW entry and the second page of the 4 November, 2005, Office action indicated that it was a "non-final" action.

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

Further, the commentary at MPEP §711.03(c) also provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal

---

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181[12]) requires that relief be sought within two (2) months of the act complained of.

---

[12] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Petitioner appears to not have satisfied the "showing" requirement described above.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

It appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 is **dismissed** and the Notice of 23 May, 2006, will not be disturbed; and petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

#5

16 MAY 2003

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

In re Application of	:	
CALVIN BREWSTER (deceased)	:	DECISION ON
Application No.: 10/204,573	:	
PCT No.: PCT/US01/05353	:	REQUEST FOR STATUS
Int. Filing Date: 21 February 2001	:	
Priority Date: 22 February 2000	:	UNDER 37 CFR 1.42
Attorney's Docket No.: BSA 99-31	:	
For: METHOD OF FORMING OPTICAL PANELS	:	
WITH UNIFORM THICKNESS ADHESIVE LAYERS	:	
OR WITH BLACK MATRIX ADHESIVE	:	

This is a decision on applicant's submission under 37 CFR 1.42, filed on 24 December 2002, and is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 21 February 2001, applicant filed international application PCT/US01/05353, which claimed priority of an earlier U.S. application filed 22 February 2000. On 24 September 2001, a Demand for international preliminary examination was filed and accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 22 August 2002.

On 22 August 2002, applicant filed a Transmittal Letter for entry into the national stage in the United States of America along with a basic national fee. Filed with the Transmittal Letter were, *inter alia*: the basic national fee.

On 24 October 2002, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration after the thirty month period was required.

On 24 December 2002, applicant filed a response to the Notification of Missing Requirements including two executed declarations. The declarations indicate that inventor Calvin Brewster is deceased. One copy of the declaration is signed by joint inventor Leonard

DeSanto, as named in the originally filed international application. The second copy of the declaration is signed by Lisa Kaull as legal representative of deceased joint inventor Calvin Brewster.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The legal representative of a deceased inventor must make the application for patent "on the same terms and conditions applicable to the inventor." 35 U.S.C. 117. To this end, 37 CFR 1.497(b)(2) states, in pertinent part,:

"If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor....". (Emphasis added.)

The declaration submitted on 24 December 2002 identifies the signatory and states the relationship of the person to the inventor as the legal representative for deceased inventor, Calvin Brewster and is acceptable under 37 CFR 1.42. (See MPEP §409.01(a)). Thus, the declaration satisfies 37 CFR 1.497(b)(2) and is acceptable. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c) date is **24 December 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

02 MAY 2005

#15

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Washington, D.C. 20231
www.uspto.gov

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of	:	
Bogner et al.	:	
Application No.: 10/204,576	:	DECISION
PCT No.: PCT/DE01/00798	:	
Int. Filing Date: 02 March 2001	:	ON
Priority Date: 03 March 2000	:	
Attorney Docket No.: P2000,0032 US N	:	PETITION
For: Methods For Producing A Light Emitting Semi-conductor Body With A Luminescence Converter...	:	

The petition to revive under 37 CFR 1.137(b) filed on 22 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants statement that "We submit that the entire period of delay was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that petitioner has submitted the "required reply" in the form of an executed declaration of the inventors in compliance with 37 CFR 1.497(a) and (b). The required petition fee of $1500.00 has been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 February 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 09062005

DATE : August 31, 2005

TO SPE OF : ART UNIT 3723 (*Exr. is Nguyen, Dung*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,899,604

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 IFW code cocout - denial letter and cocin - claim reference! SD

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** DVN 9-6-2005 — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE

3723
Art Unit

10 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

2-4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

In re Application of BARGENDE Application No.: 10/204,607 PCT No.: PCT/EP00/09003 Int. Filing Date: 14 September 2000 Priority Date: 02 December 1999 Attorney Docket No.: P/37-172 For: DEVICE FOR MONITORING THE COMBUSTION PROCESS OCCURRING IN THE COMBUSTION CHAMBER OF AN INTERNAL COMBUSTION ENGINE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 August 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in entering the national stage in the United States Patent and Trademark Office from the due date for entering the national phase in the United States until the date of this petition was unintentional" meets the requirements of 37 CFR 1 137(b)(3).

A review of the application file reveals that applicant has submitted an executed declaration and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **21 August 2002**.

Derek A Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

0 7 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mark M. Friedman
C/O Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of DINUR, et al. Application No.: 10/204,627 PCT No.: PCT/IL01/00162 Int. Filing Date: 21 February 2001 Priority Date: 23 February 2000 Attorney Docket No.: 1565/11 For: FLOW REGULATORS WITH FLEXIBLE DIAPHRAGMS	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Correction of Application Papers" filed 12 December 2002 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 21 February 2001, applicant filed international application PCT/IL01/00162, which claimed priority of an earlier application filed 23 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 August 2002.

On 22 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed combined declaration and power of attorney; a copy of the International Search Report and an assignment document for recording.

On 08 October 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant that the filed declaration was not in compliance with 37 CFR 1.497(a) and (b) as filed declaration showed only two inventors whereas the published international application listed three inventors. Applicant was also notified of the need to pay the $65.00 surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 12 December 2002, applicant responded with the present "Correction of Application

Papers" accompanied by a petition for a one-month extension of time. With the filing of the petition for a one-month extension of time and authorization to charge the petition fee, the response is considered timely filed.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to item (1), applicant has included as statement from Mr. Meir explaining that his inclusion as an inventor was in error.

Regarding item (2), applicant previously filed a combined declaration and power of attorney executed by inventors DINUR and GURNY.

As to item (3), applicant has authorized the charging of all necessary fees to Deposit Account No.: 06-2140.

Applicant has thus satisfied items (1) - (3).

Regarding Item (4), applicant has filed an assignment document for recording in the present application but has not provided the written consent of the assignee to add inventors to application as discussed above.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **DISMISSED**.

The $130.00 petition fee will be charged to Deposit Account No.: 06-2140.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to

file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

17 FEB 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

Mark M. Friedman
c/o Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of	:	
DINUR, et al.	:	
Application No.: 10/204,627	:	DECISION ON PETITION
Filing Date: 22 August 2002	:	
Attorney Docket No.: 1565/11	:	
For: FLOW REGULATORS WITH FLEXIBLE	:	
DIAPHRAGMS	:	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 06 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 May 2003, applicant was mailed a decision dismissing applicant's request under 37 CFR 1.497(d) regarding correction of inventors. Applicant was afforded two months to file any requests for reconsideration.

On 04 October 2004, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing application that the present application was abandoned as to the National stage in the United States for failure to respond to the decision mailed on 07 May 2003.

On 06 December 2004, applicant filed the present petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

As detailed in Official Gazette notice 1156 OG 53 and the Manual of Patent Examining Procedure 711.03(c), a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

> A statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant has provided a statement that the Office Action was not received, however, applicant has not satisfied the other three requirements and it is not possible to grant applicant's petition at this time.

A courtesy copy of the decision mailed 07 May 2003 is included with the decision.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be directed 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Incl: Copy of 07 May 2003 decision

28 APR 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

Mark M. Friedman
c/o Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of	:	DECISION ON RENEWED
DINUR, et al.	:	
Application No.: 10/204,627	:	PETITIONS UNDER
Filing Date: 22 August 2002	:	
Attorney Docket No.: 1565/11	:	37 CFR 1.181 AND
For: FLOW REGULATORS WITH FLEXIBLE	:	
DIAPHRAGMS	:	37 CFR 1.497(d)

This decision is in response to applicant's "Re-Petition" filed 06 April 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 February 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present U.S. National stage application. Applicant was afforded two months to file any request for reconsideration.

On 06 April 2005, applicant filed the present renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, as well as a renewed request pursuant to 37 CFR 1.497(d) in response to a decision mailed 07 May 2003.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.181

As detailed in Official Gazette notice 1156 OG 53 and the Manual of Patent Examining Procedure 711.03(c), a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

> A statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant previously satisfied item (1) in providing a statement that the Office Action was not received. Applicant has currently provided statements attesting that searches of the file jacket and the docket record do not show any indication that the decision mailed 07 May 2003 was ever received. In addition, applicant has provided a copy of the relevant docket record for the firm for the time period in question. As such, it is proper to grant applicant's renewed petition at this time to withdraw the holding of abandonment.

II. Renewed Request Pursuant to 37 CFR 1.497(d)

In response to the courtesy copy of the 07 May 2003 decision enclosed on 17 February 2005, applicant has filed a response. As detailed in that decision a request to add or delete an inventor pursuant to 37 CFR 1.497(d) requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(g);

(4) if an assignment has been executed by any of the original inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant previously satisfied items (1)-(3).

Applicant has presently provided a signed consent statement of the assignee. As such it is proper to grant applicant's request at this time to remove Yoel Meir as an inventor in this case.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The "Notification of Abandonment" mailed 04 October 2004 is hereby **VACATED**.

Applicant's renewed request under 37 CFR 1.497(d) is **GRANTED**.

The application has an international filing date of 21 February 2001 under 35 U.S.C. 363, and will be given a date of **22 August 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

30 AUG 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

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of :
KOIKE et al. :
Application No.: 10/204,629 :
PCT No.: PCT/JP01/01603 :
Int. Filing Date: 02 March 2001 :
Priority Date: 03 March 2000 :
Attorney Docket No.: 26CT-007-TN :
For: RESIN HOSE FOR FUEL :

DECISION

08/[illegible]HEIR 00000004 501147 10204629
01 [illegible] 130.00 DA

This decision is in response to applicants' "REQUEST TO ACCEPT CORRECT TRANSLATION" filed in the United States Patent and Trademark Office (USPTO) on 23 March 2006 and applicants' "SUPPLEMENT TO REQUEST TO ACCEPT CORRECT TRANSLATION" filed in the USPTO on 17 August 2006. These submissions have properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 02 March 2001, applicants filed international application PCT/JP01/01603 which claimed a priority date of 03 March 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 September 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2001, prior to nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 September 2002.

On 22 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the basic national fee; a declaration of the inventors; and a purported English translation of the international application.

On 28 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 22 August 2002 and a 35 U.S.C. 371 date of 22 August 2002.

On 23 March 2006, applicants filed a "REQUEST TO ACCEPT CORRECT TRANSLATION" requesting that the accompanying English translation be substituted for the purportedly defective English translation filed 22 August 2002. This submission has properly been treated as a petition under 37 CFR 1.181.

On 17 August 2006, applicants filed a "SUPPLEMENT TO REQUEST TO ACCEPT CORRECT TRANSLATION", which has properly been treated as a petition under 37 CFR 1.181. This supplement was sent in response to a telephone call from the undersigned requesting that applicants' representative file a submission discussing all of the differences between the purported translation filed 22 August 2002 and the translation filed 23 March 2006.

DISCUSSION

Upon review of the translations filed 22 August 2002 and 23 March 2006, the submission filed 17 August 2006, and the published international application, it is apparent that the translation of the ratio of amino end groups on page 29 in the English translation filed 22 August 2002 was incorrect. The English translation of the ratio of amino end groups on page 29 in the English translation filed 23 March 2006 is correct. The processing fee under 37 CFR 1.492(i) for filing an English translation later than thirty months from the priority date has been charged to Deposit Account 50-1147.

Because the translation filed 22 August 2002 was not sufficient, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were not completed as of the 371 dates indicated in the NOTICE OF ACCEPTANCE mailed 28 October 2002. Accordingly, the 28 October 2002 NOTICE OF ACCEPTANCE is hereby VACATED.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The NOTICE OF ACCEPTANCE mailed 28 October 2002 is VACATED.

The English translation of the international application filed 23 March 2006 will be used rather than the translation filed 22 August 2002.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of **23 March 2006**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

05 MAY 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

#6

James A. Oliff
OLIFF & BERRIDGE
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
FUWA, Tetsuji *et al*	:	
U.S. Application No.: 10/204,665	:	
PCT No.: PCT/JP01/11335	:	**DECISION**
Int. Filing Date: 25 December 2001	:	
Priority Date: 28 December 2000	:	
Attorney Docket No.: 113049	:	
For: CUSTOM-MADE PRODUCT SALES SYSTEM	:	

This decision is in response to applicants "Response to Notification of Missing Requirements . . . Declaration Already Filed" submitted on 17 January 2003 which is treated as a petition pursuant to 37 CFR 1.181. No fee is required.

BACKGROUND

On 22 August 2002, applicants filed a transmittal Letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a purported English translation of the international application as required by 35 U.S.C. 371(c)(2).

On 19 November 2002, the United States Designated/Elected Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating the translation was defective because there is "[f]oreign text in drawings: 11, 13, 14, and 18." The Notification set a two-month time limit in which to respond with extensions of time available.

On 17 January 2003, applicants filed the instant response which was accompanied by, *inter alia*, an amendment containing an English translation of the foreign text in the drawings.

DISCUSSION

In the instant response, applicants argue that: (1) Figures 11 and 13 do not include any foreign text, and (2) Figures 12, 14, 15 and 18 contain foreign text as part of the stamp face image and that this foreign text is fully supported by the English language specification and is appropriate to illustrate the invention. Applicants included an English translation of part of the drawings as an attachment.

This explanation is <u>insufficient</u>.

A review of the drawings and specification support applicants' claim that Figures 11 and 13 do not contain foreign text. However, the Notification pertained to drawings 11/18, 13/18, 14/18, and 18/18 which correspond to Figures 12, 14, 15 and 18. Moreover, the explanation given by applicants does not provide a sufficient reason why the stamp faces in the drawings could not be translated. The drawings illustrate different font faces and the foreign characters could easily be removed as they do not appear to be essential. Moreover, drawing 13/18 (Figure 14) contains an English translation added next to the foreign characters which is significantly different from the original drawings of the international application. Finally, the amendment submitted with the instant petition consisting of an English translation of the foreign text contained in the drawings does not meet the requirement for a proper English translation required by 35 U.S.C. 371(c)(2).

DECISION

For the reasons discussed above, applicants petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Applicants must submit a proper English translation containing no foreign characters within **ONE (1) MONTH** from the mail date of this decision or prior to the expiration of the time limit given in the Notification of Missing Requirements mailed 19 November 2002. Failure to provide a proper response will result in the **ABANDONMENT** of the above-captioned application.

Applicants are advised that, effective May 1, 2003, the Office changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

08 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

James A. Oliff
OLIFF & BERRIDGE
P.O. Box 19928
Alexandria, VA 22320

In re Application of FUWA, Tetsuji *et al* U.S. Application No.: 10/204,665 PCT No.: PCT/JP01/11335 Int. Filing Date: 25 December 2001 Priority Date: 28 December 2000 Attorney Docket No.: 113049 For: CUSTOM-MADE PRODUCT SALES SYSTEM	:	**DECISION**

This decision is in response to the documents filed on 04 June 2003. This is treated as a renewed petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 05 May 2003, a decision dismissing applicants' petition to vacate the Notification of Missing Requirements mailed 19 November 2002 was mailed. Applicants were given one month to submit a proper English translation containing no foreign characters in the drawings.

On 04 June 2003, applicants filed the instant response which was accompanied by, *inter alia*, an English translation of Figures 12, 14, 15 and 18 as requested.

DISCUSSION

Applicants submitted new Figures 12, 14, 15 and 18 containing no foreign text. This is a proper response to the prior decision.

However, applicants maintain "that the foreign characters / foreign text in the drawings . . . are appropriate to illustrate the invention." Applicants argue that the invention calls for specific font types that are only suitable to Kanji and Katakana characters, which are not English language sets. Therefore, using an English translation would cause a "modicum of confusion" by disconnecting the stamp appearance from the font labels.

Applicants' argument has been carefully considered but is not convincing. A review of the specification does not support applicants' claim that the inclusion of the foreign text is essential to properly illustrate the invention.

DECISION

Applicants renewed petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The amended Figures 12, 14, 15 and 18 submitted with the instant petition will replace the drawing sheets previously submitted containing foreign text. The English translation now meets the requirements of 35 U.S.C. 371(c)(2).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 December 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 04 June 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

COPY MAILED
MAY 19 2004
OFFICE OF PETITIONS

Applicant: Keller et al.
Appl. No.: 10/204,672
International Filing Date: March 8, 2001
Title: COMBINATION THERAPY FOR THE PROPHYLAXIS AND TREATMENT OF HYPERLIPIDEMIC CONDITIONS AND DISORDERS
Attorney Docket No.: 161765.00502
Pub. No.: US 2003/0232834 A1
Pub. Date: December 18, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 30, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication includes the wrong abstract on the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies an Office error, which is not a material mistake because the technical disclosure and the claims are understandable, as the information is also included summary of the invention and else where in the specification. The error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

COPY MAILED

FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Manfred Weiler, et. al.	:	
Application No. 10/204,686	:	ON PETITION
Filed: September 18, 2002	:	
Attorney Docket No. 4080-40PUS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 22, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 22, 2004. A Notice of Abandonment was mailed November 22, 2004.

In response, petitioner submitted with the instant petition $1,500 for the petition to revive fee, an amendment, and seven (7) sheets of Drawings containing Figures 1-6b.

The petition is **GRANTED**.

The application file is being referred to Technology Center 1753, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Tetsujiro Kondo et al	:
Application No. 10/204,687	:
Filed: August 23, 2002	:
Attorney Docket No. 450119-03677	:

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed July 20, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2614 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).

16 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Carol W. Burton
Hogan & Hartson, LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, CO 80202

In re Application of	:	
MAGEE, Gerard Thomas	:	
Application No.: 10/204,690	:	DECISION
PCT No.: PCT/AU01/00794	:	
Int. Filing Date: 03 July 2001	:	ON PETITION UNDER
Priority Date: 03 July 2000	:	
Docket No.: WRAY 0014	:	37 CFR 1.137(b)
For: BUSINESS INFORMATION	:	
MANAGEMENT SYSTEM	:	

Applicant's "Petition to Revive Unintentionally Abandoned Application," filed in the above-captioned application on 22 August 2002 is **GRANTED**.

Applicant's statement that "the entire delay in filing the national entry from March 3, 2002 to August 22, 2002, was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) was submitted with the national stage papers.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 22 August 2002 under 35 U.S.C. §371.

E.M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/204,701	08/23/2002	Rowland G Hunt	36-1658	7550

23117 7590 02/15/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
NGUYEN, THANH T

ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
02/15/2008	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

MAILED

FEB 14 2008

Technology Center 2100

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
Arnon NETZER, et al.
Application No. 10/204,701
Filed: August 23, 2002
For: METHOD AND APPARATUS HAVING INTELLIGENT PERIPHERAL RESOURCE PLATFORM WITH VARIABLE NUMBER OF PORTS ASSIGNED TO CONCURRENT DIFFERENT SERVICES

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed July 06, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to withdraw the Finality of office action mailed June 23, 2006.

The petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

In the first Office action, mailed Oct 05, 2005, the Examiner rejected claims 1-4 as being obvious over Maropis et al. (Pub. No. US 2002/0061092) in view of Franklin et al. (U.S. Pat. No. 6,115,742).

Applicant responded on April 05, 2006 by amending claims 1-4 and adding claims 5-21. Amended claim includes the limitation 1) "...ongoing calls concurrently connected to the service resource platform" (the term "concurrently" was added) and 2) "when the count ~~value~~ maintained for the said service is less than the maximum count value" (the word "value" was replaced with "maintained").

On June 23, 2006, the Examiner issued a final action rejecting claims 1-4 under 35 U.S.C. 103 (a) as being obvious over Maropis and Petite (US Pat. No. 6,430,268) in view of Franklin. The examiner applied a new ground of rejection relying on Petite for the teaching of "on going calls concurrently connected to the service" (emphasis added) and responded to applicant's arguments regarding the rejection of Maropis in view of Franklin. The examiner held that applicants' amendment necessitated the new grounds of rejection. Claims 8-21 were subjected to a restriction requirement and claims 5-7 were not treated on the merits.

On July 26, 2006, applicant filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner Tammy Nguyen and SPE William Vaughn in relation to the Final office action mailed June 23, 2006. In the petition, applicant's counsel alleged that the examiner "makes only completely new grounds of rejection that were not necessitated by any amendment" in the Final office action June 23, 2006; thus, rendered the Final office action premature.

On Oct 23, 2006, the applicant filed a request under MPEP 706.07(d) to 1) request for reconsideration of the examiner and SPE to withdraw the finality of the Final Office action, and 2) traverse the restriction requirements of claims 8-21. A Notice of Appeal was also filed on the same day.

An advisory action was mailed on Jan 17, 2007 which maintains the finality of the last Office action.

On Jan 23, 2007, applicant filed an Appeal Brief on the ground that the rejection of claims 1-4 is not obvious over Maropis and Petite in view of Franklin under 35 U.S.C. 103 (a).

MPEP 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits *shall* be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

MPEP 706.07(d) states in part that:

> If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

A review of the prosecution history in the instant application indicates that the Final rejection of claims 1-4 is proper since the new ground of rejection was necessitated by the amendment of the limitation "concurrently" in claim 1.

Claims 1-4 have been rejected under 35 U.S.C. §§ 103(a). It is apparent that there is a disagreement between the examiner and applicant's counsel as to whether the prior art teaches all claimed limitation(s) of claims 1-4. Such a disagreement regarding claim interpretation and rejection is appealable, not a petitionable matter.

However, the prosecution history is unclear as to the status of claims 5-7 and 8-21.

Pursuant to MPEP § 1201, the petition is **DISMISSED.**

Upon the mailing of this decision, the application will be forward to the examiner for clarification of the status of claims 5-21 and treatment of the Appeal Brief filed Jan 23, 2007 and Correction of Appeal Brief filed Feb 02, 2007.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 242-4147.

Jack Harvey
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

COPY MAILED

NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
ALFONSO-NOGUEIRO, et al. :
Application No. 10/204,704 : DECISION ON PETITION
Filed: December 2, 2002 : TO WITHDRAW
Attorney Docket No. **449122040500** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 1, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

2 8 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#6

William C. Rowland
BURNS, DOANE, SWECKER & MATHIS,
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of
ZAGHIB, Karim *et al*
U.S. Application No.: 10/204,715
PCT No.: PCT/CA01/00968
Int. Filing Date: 23 February 2001
Priority Date: 25 February 2000
Attorney Docket No.: 032256-004
For: SURFACE PREPARATION OF NATURAL GRAPHITE . . .

DECISION

This is a decision on the petition filed on 07 March 2003, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 15 October 2002 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

BACKGROUND

On 15 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an English translation, processing fee, an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and a surcharge fee must be provided. Applicants were given two months to respond.

On 07 March 2003, applicant submitted the instant petition which was accompanied by, *inter alia*, a copy of counsel's docket for the week the response was due; a computer printout from counsel's electronic docket; and a copy of the Form PCT/DO/EO/905 received by counsel via facsimile on 24 February 2003.

DISCUSSION

Section 710.06 of the Manual of Patent Examining Procedures (MPEP) states that the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within two weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had

elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Here, petitioner provided a statement that the Office communication in question was received at the correspondence address of record via facsimile on 24 February 2003. The instant petition to reset was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Moreover, petitioner provided evidence in the form of a copy of the law firm's docket titled "Urgent Global Docket" for the period 13 - 17 December 2002. Counsel explains that this is a copy of the firm's docket for the week that a response would have been due if the Form PCT/DO/EO/905 mailed 15 October 2002 would have been received. In addition, a copy of the above-captioned application computer docket was also submitted. A review of the records submitted verifies that counsel has no record that the Form PCT/DO/EO/905 mailed 15 October 2002 was ever received.

Thus, applicants have satisfied the requirements of items (A), (B) and (C) above.

CONCLUSION

For the reasons discussed above, Applicants' petition to reset the time period is hereby **GRANTED**.

Accordingly, the shortened statutory period that was originally set forth in the Form PCT/DO/EO/905 originally mailed 15 October 2002 Office is hereby reset to run from the receipt date of **24 February 2003**.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

09 JUN 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

William C. Rowland
BURNS, DOANE, SWECKER & MATHIS,
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of
ZAGHIB, Karim *et al*
U.S. Application No.: 10/204,715
PCT No.: PCT/CA01/00968
Int. Filing Date: 23 February 2001
Priority Date: 25 February 2000
Attorney Docket No.: 032256-004
For: SURFACE PREPARATION OF NATURAL GRAPHITE . . .

DECISION

This is a decision on the "Petition to Withdraw Holding of Abandonment" filed on 03 January 2005. No fee is required.

BACKGROUND

On 15 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an English translation, processing fee, an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and a surcharge fee must be provided.

On 07 March 2003, applicant submitted a petition to reset the time period to respond to the Form PCT/DO/EO/905 mailed 15 October 2002.

On 17 March 2003, an executed declaration and new drawings were filed.

On 28 May 2003, a decision resetting the time period to respond to the Form PCT/DO/EO/905 to 24 February 2003 was mailed.

On 03 November 2003, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 17 March 2003 was not in compliance with 37 CFR 1.497(a) and (b). The last name of the fourth inventor was spelled differently than is listed on the international publication.

On 06 November 2003, applicants filed a "Response to Notification of Defective Response" indicating that the last name of the fourth inventor was incorrectly listed on the international application.

On 02 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to a Form PCT/DO/EO/905 mailed 24 February 2003.

On 03 January 2005, applicants submitted the subject petition to withdraw the holding of abandonment.

DISCUSSION

On 06 November 2003, applicant responded to the Notification of a Defective Response (Form PCT/DO/EO/916) mailed 03 November 2003. This response was not acted upon.

Accordingly, the Notification of Abandonment mailed 02 December 2004 was sent in error and is hereby **VACATED**.

Response Filed 06 November 2003

A review of the international publication verifies that the last name of the fourth inventor is listed as Gherfi, while it is listed as Guerfi on the declaration filed 17 March 2003. Thus, the Notification of a Defective Response (Form PCT/DO/EO/916) filed 03 November 2003 was appropriate. In the response filed 06 November 2003, applicants state "that inventor Abdelbast Guerfi's name was incorrectly listed as Gherfi on the International Application. . . . The executed declaration submitted on March 17, 2003 is correct."

Section 201.03 of the MPEP discusses these types of errors and states, in part:

> Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration"

Applicants' explanation meets the requirements of the MPEP and is sufficient to explain the name difference between the declaration and the international publication. Therefore, the declaration submitted 17 March 2003 is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons noted above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 23 February 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 March 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND TOWNSEND & CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
KINGSMAN, Alan J.	:	
Application No. 10/204,724	:	DECISION ON PETITION
Filed: January 2, 2003	:	TO WITHDRAW
Attorney Docket No. **674523-2096**	:	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 30, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **TOWNSEND TOWNSEND & CREW, LLP** has been revoked by the assignee of the patent application on August 16, 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 the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FROMMER LAWRENCE & HAUG**
745 FIFTH AVENUE – 10TH FLOOR
NEW YORK, NY 10151

09 SEP 2003

#6

UNITED STATES 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 J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue N W
Washington, DC 20004-2604

In re Application of	:	
Goerke, Rabald, and Rujan	:	
Application No. 10/204,756	:	
PCT No.: PCT/EP01/01132	:	DECISION ON PETITION
International Filing Date: 2 February 2001	:	UNDER 37 CFR 1.47(b)
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	
For: METHOD AND APPARATUS FOR	:	
PROCESSING ELECTRONIC DOCUMENTS	:	

This is a decision on the applicant's petition under 37 CFR 1.47(b) filed 31 March 2003, to accept the application without the signature of joint inventors Alexander Goerke, Matthias Rabald, and Pal Rujan.

BACKGROUND

On 2 February 2001, applicant filed international application PCT/EP01/01132 which claimed a priority date of 23 February 2000 and designated the United States. A demand for international preliminary examination, in which the United States was elected, was filed on 30 August 2001, prior to the expiration of the nineteen months from the priority date, Accordingly, the thirty month period for paying the basic national fee expired at midnight on 23 August 2002.

On 23 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1).

On 30 September 2002, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a).

On 31 March 2003, applicant filed the instant petition under 37 CFR 1.47(b) along with a request for an extension of time within the fourth month. The petition was accompanied by a statement detailing the efforts to reach the non-signing inventors, copies of correspondence sent to the non-signing inventors, an express refusal from inventor Rujan, copies of assignment documents, and a statement pursuant to 37 CFR 3.73(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventors refuse to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventors, (4) an oath or declaration signed by each 37 CFR 1.47(b) applicant on his behalf and on behalf of the non-signing inventors, (5) proof of proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or prevent irreparable damages. Applicant has satisfied items (1), (3), (4), and (6).

As to item (2), applicant has not properly established that a diligent effort was made to locate inventor Rabald. Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that "[w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made." Relative to inventor Rabald, applicant only indicates that correspondence was sent to the last known address for inventor Rabald, but was returned as undeliverable. There is no indication that applicant made any other effort to locate inventor Rabald. To establish that a diligent effort was made to locate inventor Rabald, Section 409.03(d) of the MPEP further provides that:

> [c]opies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. It is important that the statement contain facts as opposed to conclusions.

Diligence in locating inventor Rabald requires more than mailing correspondence to his last known address when it is returned as undeliverable and, thereby, made obvious to applicant that inventor Rabald did not receive it. Any renewed petition filed must provide more evidence of applicant's efforts to locate inventor Rabald.

As to inventor Goerke, the statement of Michael J. Strauss speaks to steps taken by someone other than himself, namely SER Solutions, Inc., to contact inventor Goerke. Section 409.03(d) of the MPEP provides, in pertinent part, that relative to a statement as to the inability to locate the nonsigning inventor "[t]he statement of facts must be signed, where at all possible, by a person having first hand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted." Section 409.03(d) of the MPEP also provides that relative to the refusal of an inventor to join the prosecution of the application that:

> [w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Applicant is cautioned to avoid statements based on hearsay relative to either the location of the nonsigning inventors or their alleged refusals to join the prosecution of the application. Any renewed petition file should be accompanied by statements authored by parties that have direct knowledge of the facts contained therein.

In addition, regarding inventor Goerke, it is not clear whether he received the application papers. In this regard, it is noted that the Federal Express tracking information (Exhibit B) indicates tha the package was signed by "H. Bajraj."

As to item (5), applicant has failed to show proof of proprietary interest in the application. Although assignments were filed to establish the proprietary interest of 37 CFR 1.47(b) applicant, none of the documents reflect an assignment of the inventors rights to the 37 CFR 1.47(b) applicant or to any of the entities of which the 37 CFR 1.47(b) applicant is an assignee. Section 409.03(f) of the MPEP provides that:

> [w]hen an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

The assignments filed are insufficient for the purposes of establishing proprietary interest under 37 CFR 1.47(b) as they do not reflect an assignment of the inventors interests.

For the reasons stated above, it would not be appropriate to accept the application without the signatures of Alexander Goerke or Pal Rujan under 37 CFR 1.47(b) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded **TWO (2) MONTHS** from the mailed date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Boris Milef
PCT Legal Advisor
Office of PCT Legal Administration

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

Telephone (703)305-0010
Facsimile (703) 308-6459

27 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of	:	
Goerke et al.	:	
Application No.: 10/204,756	:	DECISION
PCT No.: PCT/EP01/01132	:	
Int. Filing Date: 02 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	PETITION
For: Method And Apparatus For	:	
Processing Electronic Documents	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(b)" filed on 09 March 2004.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. In a decision mailed on 09 September 2003, the petition under 37 CFR 1.47(b) filed on 31 March 2003 was dismissed without prejudice because it failed to satisfy requirements (2) and (5).

With regard to requirement (2) as it pertains to joint inventors Rabald and Goerke, the instant renewed petition is accompanied by copies of letters sent to each of Rabald and Goerke at his respective last known address on 24 November 2003, each requesting the respective inventor's signature on an enclosed declaration and accompanied by a copy of the application. Petitioner has also submitted copies of FedEx tracking results showing that the letters sent to both Rabald and Goerke were delivered on 26 November 2003. It is noted that the petition is accompanied by similar evidence with respect to joint inventor Rujan, but the decision mailed on 09 September 2003 already noted that the lack of Rujan's signature on the declaration was explained by his express refusal to sign, Counsel states that "the inventors simply did not respond to the letters." Based on the evidence now of record, it would be appropriate to conclude that joint inventors Goerke and Rabald have refused to sign the declaration; accordingly, requirement (2) has now been satisfied.

Regarding requirement (5), the decision mailed on 09 September 2003 noted that "Although assignments were filed to establish the proprietary interest of the 37 CFR 1.47(b) applicant, none of the documents reflect an assignment of the inventors rights to the 37 CFR 1.47(b) applicant or to any of the entities of which the 37 CFR 1.47(b) applicant is an assignee." Review of the record indicates that petitioner has established a chain of title from SER Systems AG to SER Solutions, Inc., but petitioner has not demonstrated the original assignment from the inventors to SER Systems AG (nor to any other party in the chain of title to SER Solutions, Inc.). Counsel has now provided copies of employment agreements which appear to name the three joint inventors, but those employment agreements are in the German language and petitioner has not provided translations of them. Moreover, said employment agreements appear to pertain to SER Systems Engineering GmbH, rather than SER Systems AG, and counsel has not provided adequate demonstration either that SER Systems Engineering GmbH is identical to SER Systems AG, or that SER Systems Engineering GmbH transferred any rights in the subject patent application to SER Systems AG. Most fundamentally, the copies of employment agreements at most tend to show that the joint inventors may have been under a contractual obligation to assign certain rights, but this does not show that such rights actually were assigned (or that the rights were subsequently transferred by official action or by operation of law). As such, it would not be appropriate to conclude that requirement (5) has been satisfied at this time.

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.47(b)" and should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office. Counsel is required to reply within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT** of the application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

14 JUN 2005

#10

United States Patent and Trademark Office

Commissioner for Paten
United States Patent and Trademark Offic
P.O. Box 145
Alexandria, VA 22313-145
www.uspto.go

Michael J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of	:	
Goerke et al.	:	
Application No.: 10/204,756	:	DECISION
PCT No.: PCT/EP01/01132	:	
Int. Filing Date: 02 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	PETITION
For: Method And Apparatus For	:	
Processing Electronic Documents	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(b)" filed on 27 April 2005.

DISCUSSION

In a decision mailed on 27 September 2004, the petition under 37 CFR 1.47(b) filed on 09 March 2004 was dismissed without prejudice because

> Regarding requirement (5), the decision mailed on 09 September 2003 noted that "Although assignments were filed to establish the proprietary interest of the 37 CFR 1.47(b) applicant, none of the documents reflect an assignment of the inventors rights to the 37 CFR 1.47(b) applicant or to any of the entities of which the 37 CFR 1.47(b) applicant is an assignee." Review of the record indicates that petitioner has established a chain of title from SER Systems AG to SER Solutions, Inc., but petitioner has not demonstrated the original assignment from the inventors to SER Systems AG (nor to any other party in the chain of title to SER Solutions, Inc.). Counsel has now provided copies of employment agreements which appear to name the three joint inventors, but those employment agreements are in the German language and petitioner has not provided translations of them. Moreover, said employment agreements appear to pertain to SER Systems Engineering GmbH, rather than SER Systems AG, and counsel has not provided adequate demonstration either that SER Systems Engineering GmbH is identical to SER Systems AG, or that SER Systems Engineering GmbH transferred any rights in the subject patent application to SER Systems AG. Most fundamentally, the copies of employment agreements at most tend to show that the joint inventors may have been under a contractual obligation to assign certain rights, but this does not show that such rights actually were assigned (or that the rights were subsequently transferred by official action or by operation of law). As such, it would not be appropriate to conclude that requirement (5) has been satisfied at this time.

The instant renewed petition indicates that "SER Systems Engineering GmbH was renamed SER Technology Deutschland GmbH" on 13 December 2000, and supports this assertion by providing a partial copy of certain "public corporate records in Germany." However, this does not directly address the question, raised in the decision mailed on 27 September 2004, of whether "SER Systems Engineering GmbH is identical to SER Systems AG, or that SER Systems Engineering GmbH transferred any rights in the subject patent application to SER Systems AG." Instead, counsel has merely introduced evidence tending to show that "SER Systems Engineering GmbH was renamed SER Technology Deutschland GmbH."

It would appear that different inventors worked for different companies. It is unclear how the chains of title from each and every one of the inventors came to reside in the name of a single company. In view of the unclear and complex fact situation regarding the ownership and assignment history of this application, counsel is required to provide a full description, in chronological order, of each and every step along the ownership path of this application, supported by relevant documentary evidence. Such a showing may include, for instance, a flow chart or other schematic illustration of the manner by which ownership allegedly passed to the current owner(s) of the application.

With regard to the issue of whether the inventors actually assigned their rights, counsel states in part that "each of the inventors were continuously employed during this and all relevant periods such that it must be concluded that the invention was made during the period of employment." Counsel also cited MPEP 409.03(f), which states in relevant part that

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Here, counsel attempts to rely upon an agreement to assign as evidence of sufficient proprietary interest, but no "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant" has been furnished. Instead, counsel asks that this determination be made on the basis of speculation as to whether the invention was made in the scope of the employment agreement. As such, petitioner has not established sufficient proprietary information to warrant the granting of the requested relief under 37 CFR 1.47(b).

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.47(b)" and should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office. Counsel is required to reply within TWO (2) MONTHS of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in ABANDONMENT of the application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

#12

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02 OCT 2006

Michael J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of	:	
Goerke et al.	:	
Application No.: 10/204,756	:	DECISION
PCT No.: PCT/EP01/01132	:	
Int. Filing Date: 02 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	PETITION
For: Method And Apparatus For	:	
Processing Electronic Documents	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(b) and petition under 37 CFR 1.137(b) filed on 03 March 2006, a copy of which was filed on 27 July 2006.

DISCUSSION

Petition Under 37 CFR 1.137(b)

The decision mailed on 14 June 2005 set an extendable 2-month period for response. This international application became abandoned with respect to the national stage in the United States for failure to timely reply to said decision. Applicants have filed a petition for revival pursuant to 37 CFR 1.137(b).

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of a grantable petition under 37 CFR 1.47(b) has not been filed, as discussed *infra*. Therefore, requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.47(b)

In the decision mailed on 14 June 2005, the petition under 37 CFR 1.47(b) filed on 27 April 2005 was dismissed without prejudice because

> The instant renewed petition indicates that "SER Systems Engineering GmbH was renamed SER Technology Deutschland GmbH" on 13 December 2000, and supports this assertion by providing a partial copy of certain "public corporate records in Germany." However, this does not directly address the question, raised in the decision mailed on 27 September 2004, of whether "SER Systems Engineering GmbH is identical to SER Systems AG, or that SER Systems Engineering GmbH transferred any rights in the subject patent application to SER Systems AG." Instead, counsel has merely introduced evidence tending to show that "SER Systems Engineering GmbH was renamed SER Technology Deutschland GmbH."
>
> It would appear that different inventors worked for different companies. It is unclear how the chains of title from each and every one of the inventors came to reside in the name of a single company. In view of the unclear and complex fact situation regarding the ownership and assignment history of this application, counsel is required to provide a full description, in chronological order, of each and every step along the ownership path of this application, supported by relevant documentary evidence. Such a showing may include, for instance, a flow chart or other schematic illustration of the manner by which ownership allegedly passed to the current owner(s) of the application.
>
> With regard to the issue of whether the inventors actually assigned their rights, counsel states in part that "each of the inventors were continuously employed during this and all relevant periods such that it must be concluded that the invention was made during the period of employment." Counsel also cited MPEP 409.03(f), which states in relevant part that
>
>> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> Here, counsel attempts to rely upon an agreement to assign as evidence of sufficient proprietary interest, but no "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant" has been furnished. Instead, counsel asks that this determination be made on the basis of speculation as to whether the invention was made in the scope of the employment agreement. As such,

petitioner has not established sufficient proprietary information to warrant the granting of the requested relief under 37 CFR 1.47(b).

The instant renewed petition, filed on 27 July 2006, is accompanied by a copy of a return postcard receipt itemizing the "Renewed Petition under CFR 1.47(b)" and stamped as received by "OIPE" on "MAR 03 2006." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the renewed petition under 37 CFR 1.47(b) filed on 27 July 2006 is regarded as a copy of the renewed petition originally received in the USPTO on 03 March 2006.

The petition includes documentation tending to show that SER Solutions, Inc. enjoys whatever proprietary interest may have passed from the three inventors as a result of their respective employment agreements. However, petitioner has not furnished a "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant" as described at MPEP 409.03(f). Thus, the employment agreements of record, taken alone or in combination with the other available evidence, do not establish that proprietary interest passed to the inventors' employers in the first place. In order to satisfy requirement (5) of 37 CFR 1.47(b), such a statement would be appropriate and, without it, it would not be appropriate to grant the requested relief at this time. It is noted that, if counsel is unable to obtain such a "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant," an alternative avenue for relief lies in the possibility of submitting a legal memorandum as described at MPEP 409.03(f).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)) and should be entitled "Renewed Petition Under 37 CFR 1.47(b) and 1.137(b)." Such correspondence should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

25 JUN 2007

United States Patent and Trademark Office

#10

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of	:	
Goerke et al.	:	
Application No.: 10/204,756	:	DECISION
PCT No.: PCT/EP01/01132	:	
Int. Filing Date: 02 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	PETITION
For: Method And Apparatus For	:	
Processing Electronic Documents	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(b) and petition under 37 CFR 1.137(b) filed on 02 May 2007.

DISCUSSION

Petition Under 37 CFR 1.137(b)

Regarding requirement (1), the required reply in the form of a grantable petition under 37 CFR 1.47(b) has not been filed, as discussed *infra*. Therefore, requirement (1) has not been satisfied.

Requirements (2), (3) and (4) were satisfied previously.

Petition Under 37 CFR 1.47(b)

In the decision mailed on 02 October 2006, the petition under 37 CFR 1.47(b) filed on 03 March 2006 (and 27 July 2006) was dismissed without prejudice because

> *The petition includes documentation tending to show that SER Solutions, Inc. enjoys whatever proprietary interest may have passed from the three inventors as a result of their respective employment agreements. However, petitioner has not furnished a "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant" as described at MPEP 409.03(f). Thus, the employment agreements of record, taken alone or in combination with the other available evidence, do not establish that proprietary interest passed to the inventors' employers in the first place. In order to satisfy requirement (5) of 37 CFR 1.47(b), such a statement would be appropriate and, without it, it would not be appropriate to grant the requested relief at this time. It is noted that, if counsel is unable to obtain such a "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant," an alternative avenue for relief lies in the possibility of submitting a legal memorandum as described at MPEP 409.03(f).*

In response, petitioner has provided a "Declaration of Werner Voegeli" explaining that a particular invention by Messrs. Goerke, Rabald and Rujan was made within the scope of their employment. However, Mr. Voegeli's "Declaration" does not explicitly state that the invention whose genesis he describes is the subject matter of the instant international application. Instead, he merely states (in numbered paragraph 8) that the facts he recounts led to the filing of European Patent Application no. 00103810.8. While it is noted that the instant application claims benefit of priority of said European application, the evidence of record does not establish that the subject matter of the international application (as opposed to the priority application) was invented in the scope of the inventors' employment. This deficiency could be cured by, e.g., a supplemental statement by Mr. Voegeli to the effect (if appropriate) that the facts recounted in his "Declaration" also pertain to the subject matter of the international application itself.

Petitioner indicates that the instant international application has now been assigned to BDGB Enterprise Software S.a.r.l. ("BDGB"). Accordingly, BDGB would now be the appropriate 37 CFR 1.47(b) applicant. Hence, BDGB must establish its right to take action in the application pursuant to 37 CFR 3.73(b), and must execute the declaration document.

With regard to 37 CFR 3.73(b), petitioner has presented a "Statement Under 37 CFR 3.73(b)" signed by Carl E. Mergele, who "is authorized to act on behalf of the assignee," BDGB. However, the "Statement Under 37 CFR 3.73(b)" does not indicate where documentary evidence of the chain of title has been recorded in the USPTO, nor is it accompanied by appropriate documentation of the chain of title, submitted for recordation. In particular, review of the documents accompanying the renewed petition, as well as the searchable USPTO assignment database, does not reveal the presence of an assignment from SER Solutions to BDGB.

With regard to the execution of the declaration document by the 37 CFR 1.47(b) applicant (now BDGB), petitioner has furnished an unsigned declaration document nominating the same inventive entity as the published international application. This declaration document, taken alone, is insufficient because it has not been executed by the 37 CFR 1.47(b) applicant. Petitioner has also provided an "Added Page..." (Actually 2 pages) signed by Carl E. Mergele on behalf of BDGB. This "Added Page..." names the inventors, and provides last known address and citizenship information for them, but it is inadequate when taken alone because it does not itself include the statements required by 37 CFR 1.63. The combination of the declaration document with the "Added Page..." is inadequate for the following reasons. First, the declaration document itself has not been executed, and it is not clear whether the declaration was with the "Added Page..." when Mr. Mergele signed it. That is, it is not clear from inspection of the documents themselves that Mr. Mergele signed the "Added Page..." as part of an integrated document consisting of both the "Added Page..." and the declaration, or if he merely signed the "Added Page..." by itself. The words "this declaration" in the "Added Page..." reasonably could be interpreted as referring to the "Added Page..." itself; their presence does not establish that Mr. Mergele had the benefit of a copy of the declaration. Second, the declaration lists Mr. Rujan's citizenship as "Hungary," while the "Added Page..." indicates he is a citizen of Germany. Even if the documents were to be taken together as an integrated whole, this inconsistency would be impermissible. For these reasons, it would not be appropriate to accept the declaration filed on 02 May 2007.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)) and should be entitled "Renewed Petition Under 37 CFR 1.47(b) and 1.137(b)." Such correspondence should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

A 16

17 SEP 2007

Michael J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of	:	
Goerke et al.	:	
Application No.: 10/204,756	:	DECISION
PCT No.: PCT/EP01/01132	:	
Int. Filing Date: 02 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 436.001/08006093	:	PETITION
For: Method And Apparatus For	:	
Processing Electronic Documents	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(b) and petition under 37 CFR 1.137(b) filed on 27 August 2007.

DISCUSSION

Petition Under 37 CFR 1.137(b)

Regarding requirement (1), the required reply in the form of a grantable petition under 37 CFR 1.47(b) has now been filed, as discussed *infra*. Therefore, all of the requirements of 37 CFR 1.137(b) have been satisfied.

Petition Under 37 CFR 1.47(b)

In the decision mailed on 25 June 2007, the renewed petition under 37 CFR 1.47(b) filed on 02 May 2007 was dismissed without prejudice because

> *In response, petitioner has provided a "Declaration of Werner Voegeli" explaining that a particular invention by Messrs. Goerke, Rabald and Rujan was made within the scope of their employment. However, Mr. Voegeli's "Declaration" does not explicitly state that the invention whose genesis he describes is the subject matter of the instant international application. Instead, he merely states (in numbered paragraph 8) that the facts he recounts led to the filing of European Patent Application no. 00103810.8. While it is noted that the instant application claims benefit of priority of said European application, the evidence of record does not establish that the subject matter of the international application (as opposed to the priority application) was invented in the scope of the inventors' employment. This deficiency could be cured by, e.g., a supplemental statement by Mr. Voegeli to the effect (if appropriate) that the facts recounted in his "Declaration" also pertain to the subject matter of the international application itself.*

Petitioner indicates that the instant international application has now been assigned to BDGB Enterprise Software S.a.r.l. ("BDGB"). Accordingly, BDGB would now be the appropriate 37 CFR 1.47(b) applicant. Hence, BDGB must establish its right to take action in the application pursuant to 37 CFR 3.73(b), and must execute the declaration document.

With regard to 37 CFR 3.73(b), petitioner has presented a "Statement Under 37 CFR 3.73(b)" signed by Carl E. Mergele, who "is authorized to act on behalf of the assignee," BDGB. However, the "Statement Under 37 CFR 3.73(b)" does not indicate where documentary evidence of the chain of title has been recorded in the USPTO, nor is it accompanied by appropriate documentation of the chain of title, submitted for recordation. In particular, review of the documents accompanying the renewed petition, as well as the searchable USPTO assignment database, does not reveal the presence of an assignment from SER Solutions to BDGB.

With regard to the execution of the declaration document by the 37 CFR 1.47(b) applicant (now BDGB), petitioner has furnished an unsigned declaration document nominating the same inventive entity as the published international application. This declaration document, taken alone, is insufficient because it has not been executed by the 37 CFR 1.47(b) applicant. Petitioner has also provided an "Added Page..." (Actually 2 pages) signed by Carl E. Mergele on behalf of BDGB. This "Added Page..." names the inventors, and provides last known address and citizenship information for them, but it is inadequate when taken alone because it does not itself include the statements required by 37 CFR 1.63. The combination of the declaration document with the "Added Page..." is inadequate for the following reasons. First, the declaration document itself has not been executed, and it is not clear whether the declaration was with the "Added Page..." when Mr. Mergele signed it. That is, it is not clear from inspection of the documents themselves that Mr. Mergele signed the "Added Page..." as part of an integrated document consisting of both the "Added Page..." and the declaration, or if he merely signed the "Added Page..." by itself. The words "this declaration" in the "Added Page..." reasonably could be interpreted as referring to the "Added Page..." itself; their presence does not establish that Mr. Mergele had the benefit of a copy of the declaration. Second, the declaration lists Mr. Rujan's citizenship as "Hungary," while the "Added Page..." indicates he is a citizen of Germany. Even if the documents were to be taken together as an integrated whole, this inconsistency would be impermissible. For these reasons, it would not be appropriate to accept the declaration filed on 02 May 2007.

Petitioner has provided a "Declaration of Werner Voegeli" which states in part that

The facts presented in my prior Declaration also pertain to the subject matter of the subject International Patent Application No. PCT/EP01/01132 filed 2 February 2001 which claims priority of and is substantively identical to European Patent Application No. 00103810.8 referenced in paragraph 8 of my prior Declaration.

Considering this statement in combination with the evidence previously submitted, it would now be appropriate to conclude that the subject invention was made within the scope of the inventors' employment.

been recorded in the records of the USPTO. In addition, petitioner has included a copy of the assignment with the instant renewed petition. Therefore, requirement (5) of 37 CFR 1.47(b) now has been satisfied.

The instant renewed petition is accompanied by a declaration signed on behalf of the three non-signing joint inventors by Carl E. Mergele, who states that he is "an authorized representative of BDGB Enterprise Software S.a.r.l." This declaration satisfies requirement (4) of 37 CFR 1.47(b), and is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to each non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 August 2007** (i.e., the date an acceptable declaration was filed).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signatures of the joint inventors. The petition has been granted. A notice has been sent to the last known address of each of the non-signing inventors. The inventors whose signatures are missing (Alexander GOERKE, Matthias RABALD and Pal RUJAN) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/EP01/01132 and was filed on February 2, 2001 in the names of Alexander GOERKE, Matthias RABALD and Pal RUJAN for the invention entitled METHOD AND APPARATUS FOR PROCESSING ELECTRONIC DOCUMENTS. The national stage application number is 10/204,756 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of 27 August 2007.

2 2 OCT 2007

United States 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 J. Strauss
Fulbright & Jaworski
Market Square
801 Pennsylvania Avenue, NW
Washington, DC 20004-2604

In re Application of Goerke et al. Application No.: 10/204,756 PCT No.: PCT/EP01/01132 Int. Filing Date: 02 February 2001 Priority Date: 23 February 2000 Attorney Docket No.: 436.001/08006093 For: Method And Apparatus For Processing Electronic Documents	CORRECTED DECISION ON PETITION

This is a corrected copy of the Decision mailed on 17 September 2007. Inspection of the copy mailed on 17 September 2007 reveals that two lines of text inadvertently were omitted from the top of page 3 of that decision. The missing text was present in the saved document, and appears below in context.

This is a decision on applicants' renewed petition under 37 CFR 1.47(b) and petition under 37 CFR 1.137(b) filed on 27 August 2007.

DISCUSSION

Petition Under 37 CFR 1.137(b)

Regarding requirement (1), the required reply in the form of a grantable petition under 37 CFR 1.47(b) has now been filed, as discussed *infra*. Therefore, all of the requirements of 37 CFR 1.137(b) have been satisfied.

Petition Under 37 CFR 1.47(b)

In the decision mailed on 25 June 2007, the renewed petition under 37 CFR 1.47(b) filed on 02 May 2007 was dismissed without prejudice because

> *In response, petitioner has provided a "Declaration of Werner Voegeli" explaining that a particular invention by Messrs. Goerke, Rabald and Rujan was made within the scope of their employment. However, Mr. Voegeli's "Declaration" does not explicitly state that the invention whose genesis he describes is the subject matter of the instant international application. Instead, he merely states (in numbered paragraph 8) that the facts he recounts led to the filing of European Patent Application no. 00103810.8. While it is noted that the instant application claims benefit of priority of said European application, the evidence of record does not establish that the subject matter of the international application (as opposed to the priority application) was invented in the scope of*

the inventors' employment. This deficiency could be cured by, e.g., a supplemental statement by Mr. Voegeli to the effect (if appropriate) that the facts recounted in his "Declaration" also pertain to the subject matter of the international application itself.

Petitioner indicates that the instant international application has now been assigned to BDGB Enterprise Software S.a.r.l. ("BDGB"). Accordingly, BDGB would now be the appropriate 37 CFR 1.47(b) applicant. Hence, BDGB must establish its right to take action in the application pursuant to 37 CFR 3.73(b), and must execute the declaration document.

With regard to 37 CFR 3.73(b), petitioner has presented a "Statement Under 37 CFR 3.73(b)" signed by Carl E. Mergele, who "is authorized to act on behalf of the assignee," BDGB. However, the "Statement Under 37 CFR 3.73(b)" does not indicate where documentary evidence of the chain of title has been recorded in the USPTO, nor is it accompanied by appropriate documentation of the chain of title, submitted for recordation. In particular, review of the documents accompanying the renewed petition, as well as the searchable USPTO assignment database, does not reveal the presence of an assignment from SER Solutions to BDGB.

With regard to the execution of the declaration document by the 37 CFR 1.47(b) applicant (now BDGB), petitioner has furnished an unsigned declaration document nominating the same inventive entity as the published international application. This declaration document, taken alone, is insufficient because it has not been executed by the 37 CFR 1.47(b) applicant. Petitioner has also provided an "Added Page..." (Actually 2 pages) signed by Carl E. Mergele on behalf of BDGB. This "Added Page..." names the inventors, and provides last known address and citizenship information for them, but it is inadequate when taken alone because it does not itself include the statements required by 37 CFR 1.63. The combination of the declaration document with the "Added Page..." is inadequate for the following reasons. First, the declaration document itself has not been executed, and it is not clear whether the declaration was with the "Added Page..." when Mr. Mergele signed it. That is, it is not clear from inspection of the documents themselves that Mr. Mergele signed the "Added Page..." as part of an integrated document consisting of both the "Added Page..." and the declaration, or if he merely signed the "Added Page..." by itself. The words "this declaration" in the "Added Page..." reasonably could be interpreted as referring to the "Added Page..." itself; their presence does not establish that Mr. Mergele had the benefit of a copy of the declaration. Second, the declaration lists Mr. Rujan's citizenship as "Hungary," while the "Added Page..." indicates he is a citizen of Germany. Even if the documents were to be taken together as an integrated whole, this inconsistency would be impermissible. For these reasons, it would not be appropriate to accept the declaration filed on 02 May 2007.

Petitioner has provided a "Declaration of Werner Voegeli" which states in part that

The facts presented in my prior Declaration also pertain to the subject matter of the subject International Patent Application No. PCT/EP01/01132 filed 2 February 2001 which claims priority of and is substantively identical to European Patent Application No. 00103810.8 referenced in paragraph 8 of my prior Declaration.

Considering this statement in combination with the evidence previously submitted, it would now be appropriate to conclude that the subject invention was made within the scope of the inventors' employment.

With regard to 37 CFR 3.73(b), petitioner has now satisfied the requirements of §3.73(b)(1) by submitting an appropriate assignment for recordation, and indicating where it has been recorded in the records of the USPTO. In addition, petitioner has included a copy of the assignment with the instant renewed petition. Therefore, requirement (5) of 37 CFR 1.47(b) now has been satisfied.

The instant renewed petition is accompanied by a declaration signed on behalf of the three non-signing joint inventors by Carl E. Mergele, who states that he is "an authorized representative of BDGB Enterprise Software S.a.r.l." This declaration satisfies requirement (4) of 37 CFR 1.47(b), and is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to each non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 August 2007** (i.e., the date an acceptable declaration was filed).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

26 JUL 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HARRISON & EGBERT
412 MAIN STREET
7TH FLOOR
HOUSTON, TX 77002

In re Application of HA et al	:	
U.S. Application No.: 10/204,768	:	
PCT Application No.: PCT/KR01/00291	:	
Int. Filing Date: 26 February 2001	:	DECISION
Priority Date Claimed: 29 February 2000	:	
Attorney Docket No.: 1203-75	:	
For: PERSIMMON VINEGAR POWDER AND	:	
PROCESS FOR PREPARING THE SAME	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 06 July 2004.

BACKGROUND

On 26 February 2001, applicant filed international application PCT/KR01/00291, which claimed priority of an earlier Korea application filed 29 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 07 September 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 29 August 2003.

On 23 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 October 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/KR01/00291 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 06 July 2004, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 February 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 July 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

06 FEB 200
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Eric T. Jones
REISING, ETHINGTON, BARNES, KISSELLE,
LEARMAN & MCCULLOCH
PO Box 4390
Troy, Michigan 48099-4390

In re Application of:	:	
WELLS, John	:	DECISION ON PETITION
Application No.: 10/204,780	:	UNDER 37 CFR 1.10(e)
PCT No.: PCT/GB01/00547	:	
Int. Filing Date: 09 February 2001	:	
Priority Date: 21 February 2000	:	
Attorney Docket No.: 1570.3034.001	:	
For: SIGNAL COMBINER	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.10(e)" filed 17 January 2003. No petition fee is required.

BACKGROUND

On 09 February 2001, applicant filed international application PCT/GB01/00547 which claimed a priority date of 21 February 2000 and which designated the United States.

On 14 September 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 21 August 2002.

On 21 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration. The materials were assigned application number 10/204,780.

On 17 January 2003, applicant refiled copies of the materials originally filed on 21 August 2002, accompanied by the petition considered herein. The petition states counsel's belief that the original filing had been lost in the mail, and it requests that the copies filed therein be accorded the 21 August 2002 filing date. These materials were mistakenly treated as a new application, assigned application number 10/362,157, and additional fees were charged against applicant's deposit account.

On 24 March 2003, the USPTO mailed a "Notice Of Cancellation Of Assigned Serial Number" informing applicant that the duplicative application number 10/362,157 had been

canceled, that the fees charged to applicant in that application had been refunded, and that all future submissions in the matter should be directed to application number 10/204,780. At the same time, all fees previously charged in application number 10/204,780 were also refunded to applicant.

DISCUSSION

The application file contains the materials originally filed by applicant on 21 August 2002, and these materials bear a USPTO receipt stamp dated 21 August 2002. Accordingly, applicant's petition under 37 CFR 1.10(e) to confirm the 21 August 2002 filing date is moot.

As noted above, a review of the application file reveals that the required fees paid by applicant herein have been inadvertently refunded to applicant's Deposit Account. 50-0850. Accordingly, Deposit Account No. 50-0850 will be re-charged for the $890 basic national fee and the $40 processing fee for recording an assignment (such fees having been originally paid on 21 August 2002).

CONCLUSION

Applicant's petition is **MOOT**.

The original materials filed by applicant on 21 August 2002 to initiate this national stage application are present in the application file.

Deposit Account No. 50-0850 will be re-charged for the inadvertently refunded basic national fee of $890 and the assignment recordation fee of $40.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2) and (c4) for this application is 21 August 2002.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

COPY MAILED

MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Philippe Poulin et al.	:	
Application No. 10/204,794	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 2142-00200(CP/VB 60031-16	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed August 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 20, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 22, 2007. The Notice of Abandonment was mailed July 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#10

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

FEB 20 2004

Office of the Director
Group 3600

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

In re Application of
John Nicholas Reid
Application No. 10/204,801
Filed: August 23, 2002
For: APPARATUS FOR CUTTING HOLES IN MUNITIONS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 2, 2004

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on July 30, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/18/04

Kenneth J. Dorner

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

09 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richards
Suite 500
San Diego, CA 92122

In re Application of	:	
Michael Hawkes	:	
Application No. 10/204,806	:	
PCT No.: PCT/GB01/00754	:	DECISION ON PETITION
International Filing Date: 22 February 2001	:	UNDER 37 CFR 1.47(b)
Priority Date: 23 February 2000	:	
Attorney Docket No.:14254- 002US1	:	

For: METHOD AND APPARATUS FOR INTERNET WEB SITE ACCREDITATION

This is a decision on the applicant's petition under 37 CFR 1.47(b) filed 31 January 2003, to accept the application without the signature of the sole inventor, Michael Hawkes.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/GB01/00754 which claimed a priority date of 23 February 2003 and designated the United States. The thirty month period for paying the basic national fee in the United States was midnight, 30 August 2002.

On 22 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1).

On 1 October 2002, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a).

On 31 January 2003, applicant filed the instant petition under 37 CFR 1.47(b) . The petition was accompanied by a request for an extension of time within the second month.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, (4) an oath or declaration signed by each 37 CFR 1.47(b) applicant on his behalf and on behalf of the non-signing inventor, (5) proof of proprietary interest in the application, and (6) a showing that such action is

necessary to preserve the rights of the parties or prevent irreparable damages. Applicant has satisfied item. (1).

As to item (1), the petition fee in the amount of $130.00 was received .

As it item (2), applicant failed to provide factual proof that the missing inventor refuses to execute the application. Applicant only states that applicant has been told that inventor Hawkes is refusing to sign any papers relating to the prosecution of the above-cited application. This is not sufficient. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides that, in pertinent part, that:

> [w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a part not present when an oral refusal was made will not be accepted.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition, or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign th application oath or declaration, that reason should be stated in the petition

The statement provided in the instant petition relative to the inventor's alleged refusal is devoid of any facts relative to the refusal. Any renewed petition filed must be a statement detailing the exact facts of the circumstances of the presentation of the application papers and of the refusal. Applicant is cautioned to be sure the inventor is presented with a complete copy of the application papers as the inventor cannot be said to have intelligently refused to join an application the substantive content of which he has not be apprised.

As to item (3), petitioner did not provide a statement of the last known address of the non-signing inventor. This is necessary so that the notice of the grant of 37 CFR 1.47(b) status can be sent to the non-signing inventor. Any renewed petition must be accompanied by such a statement.

As to item (4), Section 409.03(b) of the *Manual of Patent Examining Procedure* (MPEP) requires that the 37 CFR 1.47(b) applicant, or other authorized party of interest, execute the oath or declaration on behalf of, and as agent for, the non-signing inventor. An executed oath or declaration was not found among the petition papers. An oath or declaration executed by an appropriate party on behalf of, and as agent for, the non-signing inventor must be filed in order for status under 37 CFR 1.47 to be accorded the above-cited application.

As to item (5), applicant has failed to show proof of proprietary interest in the application. Section 409.03(f) of the *Manual of Patent Examining Procedure* provides, in pertinent part,:

[w]hen an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:

(A) the invention has been assigned to the applicant, or

(B) the inventor has agreed in writing to assign the invention to the applicant, or

(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing the application.

Applicant has not properly established that proprietary interest of the 37 CFR 1.47(b) applicant. Applicant is advised to review Section 409.03(f) of the Manual of Patent Examining Procedure before Filing a renewed petition under 37 CFR 1.47(b).

As to item (6), applicant has not established that the status under 37 CFR 1.47(b) is necessary to prevent the applicant from suffering irreparable damage. Section 409.03(g) of the Manual of Patent Examining Procedure provides that "irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. No such statement was found in the petition papers, but should accompany any renewed petition filed.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Michael Hawkes under 37 CFR 1.47(b) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded **TWO (2) MONTHS** from the mailed date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by the inventor or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Boris Milef
PCT Legal Advisor
Office of PCT Legal Administration
Telephone (703)305-0010
Facsimile (703) 308-6459

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

17 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richards
Suite 500
San Diego, CA 92122

In re Application of	:	
Hawkes	:	
Application No.: 10/204,806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 14.7(D)" filed on 31 October 2003, which is being treated under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. In a decision mailed on 09 September 2003, the petition under 37 CFR 1.47(b) filed on 31 January 2003 was dismissed without prejudice because it failed to satisfy requirements (2), (3), (4), (5) and (6).

With regard to requirement (2), the instant renewed petition is accompanied by a copy of a facsimile transmission from Michael Hawkes to Joshua Rowe, which evidences his refusal to sign ("I categorically refute making any such application", "I formally retract my quotation" (for fees to execute documents), and "I... would respectfully request that you never contact me again"). Based on the evidence now of record, it would be appropriate to conclude that requirement (2) has been satisfied.

Concerning requirement (3), the instant renewed petition includes a statement of Michael Hawkes' last known address.

With respect to requirement (4), the instant renewed petition is accompanied by a declaration of the inventor signed on behalf of Michael Hawkes by Joshua Rowe in the capacity of "Chairman" of Trade-Safely.Com.

Regarding requirement (5), counsel asserts that the copy of an order of the High Court of Justice accompanying the petition provides sufficient proof of petitioner's proprietary interest. Inspection of that court order shows that, in clause 3 of the "Schedule," it is provided that

> The Defendants, and each of them, acknowledge that the Intellectual Property set out in the witness statement of Joshua Rowe dated 18 July 2001, the exhibit thereto are owned by the Company.

However, no copy of the "witness statement of Joshua Rowe dated 18 July 2001" appears to accompany the petition. Thus, it is not clear whether this court order in fact does grant sufficient proprietary interest in THIS patent application to petitioner. Petitioner is required to furnish an opinion or memorandum prepared by an individual appropriately qualified or licensed to interpret the decisions of the court in question, describing the extent of the ownership interest of Trade-Safely.Com, Ltd. In this particular patent application. Any such opinion or memorandum must be accompanied by copies of any documentation relied upon to establish such ownership.

With regard to requirement (6), petitioner has asserted that "a filing date is necessary to preserve the rights of the Rule 47(b) party and to prevent irreparable damage by loss of rights." This statement is being accepted in satisfaction of requirement (6).

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.47(b)" and should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office. Counsel is required to reply within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT** of the application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
(571) 272-3283
Fax: (703) 308-6459
(571) 273-0459

17 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richards
Suite 500
San Diego, CA 92122

In re Application of	:	
Hawkes	:	
Application No.: 10/204;806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 14.7(D)" filed on 31 October 2003, which is being treated under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. In a decision mailed on 09 September 2003, the petition under 37 CFR 1.47(b) filed on 31 January 2003 was dismissed without prejudice because it failed to satisfy requirements (2), (3), (4), (5) and (6).

With regard to requirement (2), the instant renewed petition is accompanied by a copy of a facsimile transmission from Michael Hawkes to Joshua Rowe, which evidences his refusal to sign ("I categorically refute making any such application", "I formally retract my quotation" (for fees to execute documents), and "I... would respectfully request that you never contact me again"). Based on the evidence now of record, it would be appropriate to conclude that requirement (2) has been satisfied.

Concerning requirement (3), the instant renewed petition includes a statement of Michael Hawkes' last known address.

With respect to requirement (4), the instant renewed petition is accompanied by a declaration of the inventor signed on behalf of Michael Hawkes by Joshua Rowe in the capacity of "Chairman" of Trade-Safely.Com.

Regarding requirement (5), counsel asserts that the copy of an order of the High Court of Justice accompanying the petition provides sufficient proof of petitioner's proprietary interest. Inspection of that court order shows that, in clause 3 of the "Schedule," it is provided that

> The Defendants, and each of them, acknowledge that the Intellectual Property set out in the witness statement of Joshua Rowe dated 18 July 2001, the exhibit thereto are owned by the Company.

However, no copy of the "witness statement of Joshua Rowe dated 18 July 2001" appears to accompany the petition. Thus, it is not clear whether this court order in fact does grant sufficient proprietary interest in THIS patent application to petitioner. Petitioner is required to furnish an opinion or memorandum prepared by an individual appropriately qualified or licensed to interpret the decisions of the court in question, describing the extent of the ownership interest of Trade-Safely.Com, Ltd. In this particular patent application. Any such opinion or memorandum must be accompanied by copies of any documentation relied upon to establish such ownership.

With regard to requirement (6), petitioner has asserted that "a filing date is necessary to preserve the rights of the Rule 47(b) party and to prevent irreparable damage by loss of rights." This statement is being accepted in satisfaction of requirement (6).

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.47(b)" and should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office. Counsel is required to reply within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT** of the application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
(571) 272-3283
Fax: (703) 308-6459
(571) 273-0459

05 MAY 2005

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richards
Suite 500
San Diego, CA 92122

In re Application of	:	
Hawkes	:	DECISION ON
Application No.: 10/204,806	:	
PCT No.: PCT/GB01/00754	:	PETITION AND
Int. Filing Date: 22 February 2001	:	
Priority Date: 23 February 2000	:	NOTICE OF
Attorney Docket No.: 14254-002US1	:	
For: Method And Apparatus For	:	ABANDONMENT
Internet Web Site Accreditation	:	

This is in response to applicants' "Renewed Petition" filed on 23 March 2005.

DISCUSSION

Counsel states that

> The USPTO's PAIR system shows a petition decision as "dismissed" having been mailed on September 20, 2004.Such a petition decision, if actually mailed, has never been received by the undersigned. Therefore, and to the extent necessary, kindly revive the above referenced application. Any abandonment was unavoidable, since no petition decision was ever received by the undersigned.

It is noted that the decision on petition was actually mailed on 17 September 2004. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket records must also be referenced in petitioner's statement).

A review of the totality of evidence now of record establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied requirement (1). However, with regard to requirement (2), counsel has not alluded to a search of the file jacket and docket records, and with regard to requirement (3), counsel has not provided a copy of the docket record showing where the decision would have been docketed for response had it been received. As such, it would not be appropriate to grant the requested relief on the basis of the present record.

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

This international application became **ABANDONED** with respect to the national stage in the United States for failure to timely reply to the decision on petition mailed on 17 September 2004, and remains **ABANDONED**.

A copy of the decision on petition mailed on 17 September 2004 is attached hereto.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. This period is NOT extendable under 37 CFR 1.136(a). *See* 37 CFR 1.181(f).

Any further communication with regard to this matter should be addressed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

enc.: Copy of petition decision mailed 17 September 2004

15 JUN 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

Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130-2081

In re Application of	:	
Hawkes	:	DECISION ON
Application No.: 10/204,806	:	
PCT No.: PCT/GB01/00754	:	PETITION AND
Int. Filing Date: 22 February 2001	:	
Priority Date: 23 February 2000	:	NOTICE OF
Attorney Docket No.: 14254-002US1	:	
For: Method And Apparatus For	:	ABANDONMENT
Internet Web Site Accreditation	:	

This is in response to applicants' "Renewed Petition" filed on 23 March 2005.

DISCUSSION

Counsel states that

> The USPTO's PAIR system shows a petition decision as "dismissed" having been mailed on September 20, 2004.Such a petition decision, if actually mailed, has never been received by the undersigned. Therefore, and to the extent necessary, kindly revive the above referenced application. Any abandonment was unavoidable, since no petition decision was ever received by the undersigned.

It is noted that the decision on petition was actually mailed on 17 September 2004. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket records must also be referenced in petitioner's statement).

A review of the totality of evidence now of record establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied requirement (1). However, with regard to requirement (2), counsel has not alluded to a search of the file jacket and docket records, and with regard to requirement (3), counsel has not provided a copy of the docket record showing where the decision would have been docketed for response had it been received. As such, it would not be appropriate to grant the requested relief on the basis of the present record.

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

This international application became **ABANDONED** with respect to the national stage in the United States for failure to timely reply to the decision on petition mailed on 17 September 2004, and remains **ABANDONED**.

A copy of the decision on petition mailed on 17 September 2004 is attached hereto.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. This period is NOT extendable under 37 CFR 1.136(a). *See* 37 CFR 1.181(f).

Any further communication with regard to this matter should be addressed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

enc.: Copy of petition decision mailed 17 September 2004

17 SEP 20

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richards
Suite 500
San Diego, CA 92122

In re Application of	:	
Hawkes	:	
Application No.: 10/204,806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 14.7(D)" filed on 31 October 2003, which is being treated under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. In a decision mailed on 09 September 2003, the petition under 37 CFR 1.47(b) filed on 31 January 2003 was dismissed without prejudice because it failed to satisfy requirements (2), (3), (4), (5) and (6).

With regard to requirement (2), the instant renewed petition is accompanied by a copy of a facsimile transmission from Michael Hawkes to Joshua Rowe, which evidences his refusal to sign ("I categorically refute making any such application", "I formally retract my quotation" (for fees to execute documents), and "I... would respectfully request that you never contact me again"). Based on the evidence now of record, it would be appropriate to conclude that requirement (2) has been satisfied.

Concerning requirement (3), the instant renewed petition includes a statement of Michael Hawkes' last known address.

With respect to requirement (4), the instant renewed petition is accompanied by a declaration of the inventor signed on behalf of Michael Hawkes by Joshua Rowe in the capacity of "Chairman" of Trade-Safely.Com.

Regarding requirement (5), counsel asserts that the copy of an order of the High Court of Justice accompanying the petition provides sufficient proof of petitioner's proprietary interest. Inspection of that court order shows that, in clause 3 of the "Schedule," it is provided that

> The Defendants, and each of them, acknowledge that the Intellectual Property set out in the witness statement of Joshua Rowe dated 18 July 2001, the exhibit thereto are owned by the Company.

However, no copy of the "witness statement of Joshua Rowe dated 18 July 2001" appears to accompany the petition. Thus, it is not clear whether this court order in fact does grant sufficient proprietary interest in THIS patent application to petitioner. Petitioner is required to furnish an opinion or memorandum prepared by an individual appropriately qualified or licensed to interpret the decisions of the court in question, describing the extent of the ownership interest of Trade-Safely.Com, Ltd. In this particular patent application. Any such opinion or memorandum must be accompanied by copies of any documentation relied upon to establish such ownership.

With regard to requirement (6), petitioner has asserted that "a filing date is necessary to preserve the rights of the Rule 47(b) party and to prevent irreparable damage by loss of rights." This statement is being accepted in satisfaction of requirement (6).

DECISION

For the reasons explained above, the petition is **DISMISSED**, without prejudice.

Any request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.47(b)" and should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office. Counsel is required to reply within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT** of the application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
(571) 272-3283
Fax: (703) 308-6459
(571) 273-0459

27 SEP 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

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of HAWKES, Michael Application No.: 10/204,806 PCT No.: PCT/GB01/00754 Int. Filing Date: 22 February 2001 Priority Date: 23 February 2000 Attorney Docket No.: 14254-002US1 For: METHOD AND APPARATUS FOR INTERNET WEB SITE ACCREDITATION	DECISION ON PETITIONS UNDER 37 CFR 1.47(b) AND 1.181

This decision is in response to applicant's "Request For Reconsideration," filed in the United States Patent and Trademark Office on 15 August 2005.

BACKGROUND

On 15 June 2005, the Office mailed Decision On Petition And Notice of Abandonment.

On 15 August 2005, applicants submitted the instant petition under 37 CFR 1.181 and a renewed petition under 37 CFR 1.47(b).

DISCUSSION

Applicants request that the Office withdraw the holding of abandonment. The Petition Decision mailed on 17 September 2004 bore an insufficient address, omitting the street and number of counsel's La Jolla address. As the correspondence was not correctly addressed, it is not presumed that the correspondence was received. Applicants' petition to withdraw the holding of abandonment is granted.

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously met.

Item (5) has not been satisfied. Applicants furnished a court order indicating that Tradesafely.com Ltd owns the intellectual property set out in Joshua Rowe's witness statement dated 18 July 2001. The statement furnished by applicants is dated 18 July 2000. Applicants have not addressed this discrepancy.

Additionally, the claims and drawings included as JR3 in Rowe's statement are different from those of the international application and it is not clear that they are directed to the same invention. Applicant must demonstrate sufficient proprietary interest in the invention. MPEP 409.03(f). Such proprietary interest may be demonstrated by an appropriate legal memorandum, as set forth in MPEP 409.03(f):

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

The memorandum of Patrick Alexander Desmond Lloyd is not sufficient to constitute a legal memorandum as described in MPEP 409.03(f). His statement references Rowe's witness statement that, as discussed above, is not properly identified in the Court's decision. Further, while identifying JR3 as the priority application of this PCT, Mr. Lloyd's memorandum is devoid of support for the conclusion that this application and not just the priority application, is the property of Tradesafely.com.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **GRANTED** and the petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)".

The Notice of Abandonment mailed 15 June 2005 is **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

23 JUN 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

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of	:	
HAWKES, Michael	:	
Application No.: 10/204,806	:	DECISION ON
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	PETITION
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	UNDER 37 CFR 1.47(b)
For: METHOD AND APPARATUS FOR	:	
INTERNET WEB SITE	:	
ACCREDITATION	:	

This decision is in response to applicant's "Response to Decision On Petition," filed in the United States Patent and Trademark Office on 23 December 2005.

BACKGROUND

On 27 September 2005, the Office mailed Decision On Petitions Under 37 CFR 1.47(b) and 37 CFR 1.181, granting applicant's petition under 37 CFR 1.181 and dismissing without prejudice applicant's petition under 37 CFR 1.47(b).

On 23 December 2005, applicants submitted the instant renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously met.

Item (5) has not been satisfied. Applicant has adequately explained the dating discrepancy in the witness statement of Joshua Rowe.

However, as previously noted, the claims and drawings included as JR3 in Rowe's statement are different from those of the international application and it is not clear that they are directed to the same invention. Applicant alleges that Tradesafely.com Ltd. owns the priority application that formed the basis of the international application and national phase application. However, ownership of the priority document is not what applicant must establish. Applicant must establish ownership of the international application and the national phase of that international. Applicant could do so by providing a legal memorandum to the effect that a court of competent jurisdiction would award title to *this* application to the 37 CFR 1.47(b) applicant. See MPEP 409.03(f). Such a memorandum should address the differences between the priority application and the instant application.

The memorandum of Patrick Alexander Desmond Lloyd does not address the ownership of the national phase application, but rather the ownership of the priority application. Mr. Lloyd's memorandum is devoid of support for the conclusion that *this* application and not just the priority application, is the property of Tradesafely.com. Mr. Lister's statement, as with Mr. Lloyd's, addresses the ownership of the priority document and states his understanding that the priority documents became the international applications. As indicated above, this is not correct. The applications are not the same. The applications have different claims and drawings. This understanding appears to be based on information from Mr. Lloyd and not based on an analysis of the different applications and an application of the applicable law to the facts.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

12 FEB 2007

#19

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130-2081

In re Application of	:	
Hawkes	:	
Application No.: 10/204,806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 21 December 2006.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Petitioner previously satisfied requirements (1), (2), (3), (4) and (6).

Regarding requirement (5), "Applicant submits a Declaration executed by Paul Tomlinson, a Solicitor of the Supreme Court in the United Kingdom. This Declaration provides Mr. Tomlinson's legal opinion and conclusion that, under United Kingdom law, and based on the court decision, Tradesafely has sufficient proprietary interest in the application." Counsel's attention is respectfully drawn to MPEP 409.03(f), which states in pertinent part that

> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Mr. Tomlinson's "Legal Memorandum" appears to be factually based upon facts which have not been made of record in this application (e.g., the letter "prepared by Elliot Lister, formerly an Associate with this firm, who had actual knowledge of this matter"). Under the practice described at MPEP 409.03(f), "The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same." Thus, any such documentation relied upon should be made of record in the application file. Similarly, Mr. Tomlinson cites various sections of the English Patents Act of 1977 (e.g., "section 39," "section 130(1)," and sections 7 and 13), but copies of these sections have not been made of record, despite the statement in MPEP 409.03(f) that "A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record." As such, requirement (5) has not been satisfied. Any attempt to perfect Mr. Tomlinson's legal memorandum should explicitly include, as attachments, copies of the factual documents and legal authority relied upon.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

#21

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130-2081

21 AUG 2007

In re Application of	:	
Hawkes	:	
Application No.: 10/204,806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 14 May 2007.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Petitioner previously satisfied requirements (1), (2), (3), (4) and (6). Therefore, the sole remaining issue is requirement (5).

In a Decision mailed on 12 February 2007, the renewed petition under 37 CFR 1.47(b) filed on 21 December 2006 was dismissed without prejudice because

> Mr. Tomlinson's "Legal Memorandum" appears to be factually based upon facts which have not been made of record in this application (e.g., the letter "prepared by Elliot Lister, formerly an Associate with this firm, who had actual knowledge of this matter"). Under the practice described at MPEP 409.03(f), "The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same." Thus, any such documentation relied upon should be made of record in the application file. Similarly, Mr. Tomlinson cites various sections of the English Patents Act of 1977 (e.g., "section 39," "section 130(1)," and sections 7 and 13), but copies of these sections have not been made of record, despite the statement in MPEP 409.03(f) that "A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record." As such, requirement (5) has not been satisfied. Any attempt to perfect Mr. Tomlinson's legal memorandum should explicitly include, as attachments, copies of the factual documents and legal authority relied upon.

The instant renewed petition includes a further "Legal Memorandum executed by Paul Tomlinson, a Solicitor of the Supreme Court in the United Kingdom. This Declaration provides Mr. Tomlinson's legal opinion and conclusion that, under United Kingdom law, and based on the court decision, Tradesafely has sufficient proprietary interest in the application."

Review of said legal memorandum reveals that Mr. Tomlinson concludes that "the Company can rely on the Order and English law to demonstrate that it has good title in law and equity to the UK Application and the PCT Application claiming priority from it and that the courts would find that it owned all legal and beneficial title to any granted patents."

However, inspection of the supporting documents attached to said legal memorandum reveals that they are not compliant with the practice outlined at MPEP 409.03(f).

It is noted that, while the copy of Mr. Lister's letter dated 17 August 2005 (Exhibit 1) accompanying the instant petition was not signed, a signed copy was filed on 23 December 2005.

The provided copy of the "Extracts from the Patents Act 1977" (Exhibit 2) is incomplete in the sense that section 130.-(1) appears to continue on to a further page which has not been provided.

With regard to the "Order" (Exhibit 3), paragraph 3 states that

> The Defendants, and each of them, acknowledge that the Intellectual Property set out in the witness statement of Joshua Rowe dated 18 July 2001, the exhibit thereto are owned by the Company.

However, petitioner has not clearly provided a copy of said statement of Joshua Rowe, and introduced said copy as in fact being a copy of the document referenced by the Order. A document signed by Mr. Rowe and dated 18 July 2000 (rather than 2001 as noted in the Order) was filed on 15 August 2005 and is currently of record in the application file. Petitioner should clarify whether this is in fact the "statement of Joshua Rowe dated 18 July 2001" referenced by the Order and, if so, explain the discrepancy between the 2000 and 2001 dates.

It is also noted that Patrick A. D. Lloyd's letter (Exhibit 4) dated 30 October 2006 is unsigned. Petitioner is requested to rectify the above-noted defects so as to perfect the basis of Mr. Tomlinson's memorandum.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

2 5 FEB 2008

United States Patent and Trademark Office

#23

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130-2081

In re Application of	:	
Hawkes	:	
Application No.: 10/204,806	:	DECISION
PCT No.: PCT/GB01/00754	:	
Int. Filing Date: 22 February 2001	:	ON
Priority Date: 23 February 2000	:	
Attorney Docket No.: 14254-002US1	:	PETITION
For: Method And Apparatus For	:	
Internet Web Site Accreditation	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 27 December 2007.

DISCUSSION

In a Decision mailed on 21 August 2007, the renewed petition under 37 CFR 1.47(b) filed on 14 May 2007 was dismissed without prejudice because the supporting documents accompanying the legal memorandum were not adequate within the practice described at MPEP 409.03(f).

The renewed petition includes a further legal memorandum signed by Paul Tomlinson on 16 November 2007, as well as supporting documentation curing the defects noted in the Decision mailed on 21 August 2007. In view of the totality of the evidence currently of record, it now would be appropriate to conclude that requirement (5) has been satisfied. As such, all of the requirements for relief under 37 CFR 1.47(b) have been satisfied.

DECISION

The petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

The application is being returned to the Office of Patent Application Processing for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **31 October 2003** (i.e., the date an acceptable declaration was filed).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

2 5 FEB 2008

United States 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 Hawkes
Lyme House
Dunwood Lane
Rudyard
Staffordshire, ST13 8RH
UNITED KINGDOM

In re Application of
Hawkes
Application No.: 10/204,806
PCT No.: PCT/GB01/00754
Int. Filing Date: 22 February 2001
Priority Date: 23 February 2000
Atty Docket No.: 14254-002US1
For: Method And Apparatus For
Internet Web Site Accreditation

Dear Mr. Hawkes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130-2081

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signatures of the joint inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Michael HAWKES) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/GB01/00754 and was filed on February 22, 2001 in the name of Michael HAWKES for the invention entitled METHOD AND APPARATUS FOR INTERNET WEB SITE ACCREDITATION. The national stage application number is 10/204,806 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of 31 October 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 24 2005

In re Application of	:	
David Cheshire et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/204,808	:	FROM ISSUE
Filed: August 22, 2002	:	UNDER 37 CFR 1.313(b)
For: NOVEL USE OF	:	
PHENYLHETEROALKYLAMINE	:	
DERIVATIVES	:	

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

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

14 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

David F. Zinger
Sheridan Ross P.C.
1560 Broadway
Suite 1200
Denver, Colorado 80202-5141

In re Application of SPERBER, Henry Application No.: 10/204,819 PCT No.: PCT/US00/40592 Int. Filing Date: 07 August 2000 Priority Date: 09 August 1999 Attorney Docket No.: 1136-24-PUS For: INDEPENDENTLY CONTROLLABLE MULTI-OUTPUT INSULATION BLOWING MACHINE	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 August 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in entering the U.S. national phase was unintentional" has been construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional."

A review of the application file reveals that applicant has submitted the basic national fee of $50 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **22 August 2002**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 15 2005

Dr. Giok Djien Go
Pfahlgrabenstr. 45
D-65510 Idestein
Germany

In re Application of Dr. Giok Djien Go Application No. 10/204,827 Filed: January 9, 2003	: : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

For: DEVICE TO VERIFY SEAT-BELT USE AND DISSIPATE GREAT BELT FORCE

This is a decision on Applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on July 25, 2005.

The petition is **GRANTED**.

A review of the file record reveals that an Office action (Restriction/Election Requirement) was mailed on September 23, 2004 wherein a one-month shortened statutory period for response was set. A response and request for a one-month extension of time was received on November 22, 2004. An Office action was mailed on December 21, 2004 wherein it was held that the response of November 22, 2004 was improper because it did not elect a group of claims. No period for response was set in the December 21, 2004 Office action. The application was held abandoned in the Notice of Abandonment mailed May 19, 2005 wherein it was held that the reply of November 22, 2004 did not constitute a proper reply or a bona fide attempt at a proper reply.

Inasmuch as the response of November 22, 2004 included extensive amendments to the claims, including the "withdrawal" of claims 2-28, coupled with the fact that the applicant is a pro se applicant, the response is considered to at least be bona fide. As such, the Office action of December 21, 2004 should have set a one-month shortened statutory period for response within which to correct the response.

The holding of abandonment is hereby withdrawn.

The reply filed on November 22, 2004 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant did not select a group of claims. Since the above-mentioned reply appears to be bona fide, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

To be complete, a reply to the Office action of September 23, 2004 should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and return the application to pending status.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 8/11/05

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

4-7-06
~~AUG 15 2005~~

Dr. Giok Djien Go
Pfahlgrabenstr. 45
D-65510 Idstein
Germany

In re Application of Dr. Giok Djien Go Application No. 10/204,827 Filed: January 9, 2003	: : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

For: DEVICE TO VERIFY SEAT-BELT USE AND DISSIPATE GREAT BELT FORCE

This is a decision on Applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on July 25, 2005.

The petition is **GRANTED**.

A review of the file record reveals that an Office action (Restriction/Election Requirement) was mailed on September 23, 2004 wherein a one-month shortened statutory period for response was set. A response and request for a one-month extension of time was received on November 22, 2004. An Office action was mailed on December 21, 2004 wherein it was held that the response of November 22, 2004 was improper because it did not elect a group of claims. No period for response was set in the December 21, 2004 Office action. The application was held abandoned in the Notice of Abandonment mailed May 19, 2005 wherein it was held that the reply of November 22, 2004 did not constitute a proper reply or a bona fide attempt at a proper reply.

Inasmuch as the response of November 22, 2004 included extensive amendments to the claims, including the "withdrawal" of claims 2-28, coupled with the fact that the applicant is a pro se applicant, the response is considered to at least be bona fide. As such, the Office action of December 21, 2004 should have set a one-month shortened statutory period for response within which to correct the response.

The holding of abandonment is hereby withdrawn.

The reply filed on November 22, 2004 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant did not select a group of claims. Since the above-mentioned reply appears to be bona fide, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

To be complete, a reply to the Office action of September 23, 2004 should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and return the application to pending status.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 8/11/05

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

COPY MAILED
DEC 15 2006
OFFICE OF PETITIONS

Giok Djien Go
Pfahlgrabenstr 45
Idstein D 655-10 DE GERMANY

In re Application of :
Go : DECISION ON PETITION
Application No. 10/204,827 :
Filed: May 9, 2003 :
For: DEVICE FOR DETECTING THE :
USE OF A BELT AND THE SERVICE
LIFE OF THE RESTRAINT SYSTEMS

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 November 10, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181." This is not a final agency decision.

This application became abandoned for failure to timely submit a proper reply to the Office communication mailed April 7, 2006. The Office communication set a one month non-extendible period of time for reply. Notice of Abandonment was mailed October 27, 2006.

Petitioner alleges non-receipt of the Notice mailed April 7, 2006.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from petitioner stating that the Office communication was not received by petitioner 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 petitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Petitioner has failed to provide any supporting documentation to support the contention of non-receipt of the Office communication.

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

COPY MAILED

MAR 30 2007

OFFICE OF PETITIONS

RECEIVED

CANCELLED

MAR 30 2007

OFFICE OF PETITIONS

Giok Djien Go
Pfahlgrabenstr 45
Idstein D 655-10 DE GERMANY

In re Application of :
Go : DECISION ON PETITION
Application No. 10/204,827 :
Filed: January 9, 2003 :
Atty. Docket No.: DEVICE FOR :
DETECTING THE USE OF A BELT AND :
THE SERVICE LIFE OF THE :
RESTRAINT SYSTEMS :

This is a decision on the petition under 37 CFR 1.137, filed January 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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." This is not a final agency decision.

This application became abandoned for failure to timely submit a proper reply to the non-final Office action mailed September 23, 2004. The non-final Office action set a one month statutory period of time for reply. Notice of Abandonment was mailed May 19, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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 submission of the required petition fee is required prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137.

Petitioner has not indicated if he seeks consideration pursuant to 37 CFR 1.137(a) or 37 CFR 1.137(b).

While petitioner is alleged to have submitted a credit card authorization form, petitioner is reminded payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. *See*, 37 CFR 1.23.

Any renewed petition must comply with the provisions of the requested relief, to be specified by petitioner, and must include the required fee.

Enclosed as a courtesy are forms for petitioner's consideration.

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

Enclosures

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/61 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United 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 any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Giok Djien Go
Pfahlgrabenstr 45
Idstein D 655-10 DE GERMANY

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Go : DECISION ON PETITION
Application No. 10/204,827 :
Filed: January 9, 2003 :
Atty. Docket No.: DEVICE FOR :
DETECTING THE USE OF A BELT AND :
THE SERVICE LIFE OF THE :
RESTRAINT SYSTEMS :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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." This is not a final agency decision.

This application became abandoned for failure to timely submit a proper reply to the Office communication mailed April 7, 2006. The Office communication set a one month statutory period of time for reply. Notice of Abandonment was mailed October 27, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the

petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement (1) set forth above. The required reply to the outstanding Office communication has not been submitted. Petitioner indicates non-receipt of the Office communication, but does not specify which Office communication he has not received. Therefore, copies of the most recent Office communications mailed are enclosed herewith as a courtesy. It would seem that petitioner has failed to elect claims as originally required per the Office communication mailed September 23, 2004, as indicated in the numerous subsequently mailed Office communications.

Inquiries regarding the nature of the reply must be directed to the examiner of record.

An examination of this petition reveals that petitioner may be unfamiliar with patent petition 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. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Any renewed petition must be accompanied by the required reply to the outstanding Office communication.

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

Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

4-7-06

~~AUG 15 2005~~

Dr. Giok Djien Go
Pfahlgrabenstr. 45
D-65510 Idstein
Germany

In re Application of Dr. Giok Djien Go Application No. 10/204,827 Filed: January 9, 2003	: : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

For: DEVICE TO VERIFY SEAT-BELT USE AND DISSIPATE GREAT BELT FORCE

This is a decision on Applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on July 25, 2005.

The petition is **GRANTED**.

A review of the file record reveals that an Office action (Restriction/Election Requirement) was mailed on September 23, 2004 wherein a one-month shortened statutory period for response was set. A response and request for a one-month extension of time was received on November 22, 2004. An Office action was mailed on December 21, 2004 wherein it was held that the response of November 22, 2004 was improper because it did not elect a group of claims. No period for response was set in the December 21, 2004 Office action. The application was held abandoned in the Notice of Abandonment mailed May 19, 2005 wherein it was held that the reply of November 22, 2004 did not constitute a proper reply or a bona fide attempt at a proper reply.

Inasmuch as the response of November 22, 2004 included extensive amendments to the claims, including the "withdrawal" of claims 2-28, coupled with the fact that the applicant is a pro se applicant, the response is considered to at least be bona fide. As such, the Office action of December 21, 2004 should have set a one-month shortened statutory period for response within which to correct the response.

The holding of abandonment is hereby withdrawn.

The reply filed on November 22, 2004 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant did not select a group of claims. Since the above-mentioned reply appears to be bona fide, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

To be complete, a reply to the Office action of September 23, 2004 should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and return the application to pending status.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 8/11/05

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.
10/204,827	01/09/2003	Giok Djien Go		7756

7590 12/21/2004

Giok Djien Go
Pfahlgrabenstr 45
Idstein, D 65510
GERMANY

EXAMINER
ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
3616	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20041215

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 22 November 2004 is non-responsive to the Restriction Requirement dated 23 September 2004. The applicant should select a group of claims from the originally filed set of claims for examination, as set forth in the Restriction Requirement.

Further, the amendment does not comply with the Revised Amendment Practive, which became effective 30 July 2003. The examiner has attached a sample format for the revised amendment practice in order to help the applicant in drafting future amendments.

12/17/04

PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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.
10/204,827	01/09/2003	Giok Djien Go		7756

7590 09/23/2004

Giok Djien Go
Pfahlgrabenstr 45
Idstein, D 65510
GERMANY

EXAMINER
ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
3616	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/204,827	GO, GIOK DJIEN
	Examiner	Art Unit
	Laura B Rosenberg	3616

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-41 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-41 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, drawn to a seat belt restraint system with impact identity elements.

Group II, claim(s) 2 and 3, drawn to a control system for indicating seat belt uses.

Group III, claim(s) 4-41, drawn to a microprocessor and program for recording seat belt and accident data.

2. The inventions listed as Groups I, II, and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

the special technical features of Group III are a microprocessor and program for recording seat belt and accident data, which are not present in Groups I or II;

the special technical feature of Group II is a control system for indicating seat belt uses, which is not present in Group I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even if the requirement is traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura B. Rosenberg
Laura B Rosenberg
Patent Examiner
Art Unit 3616

LBR

9/17/04
PAUL N. DICKSON
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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
SEP 26 2007
OFFICE OF PETITIONS

Giok Djien Go
Pfahlgrabenstr 45
Idstein D 655-10 DE GERMANY

In re Application of :
Go : DECISION ON PETITION
Application No. 10/204,827 :
Filed: January 9, 2003 :
Atty. Docket No.: DEVICE FOR :
DETECTING THE USE OF A BELT AND :
THE SERVICE LIFE OF THE :
RESTRAINT SYSTEMS :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 non-final Office action mailed September 23, 2004. The non-final Office action set a one month statutory period of time for reply. Notice of Abandonment was mailed May 19, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The submission of the required petition fee is required prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b). The USPTO Finance Office has indicated that the fees submitted herewith via credit card are insufficient, the USPTO having received $700.00 and the required fee due being $750.00. Accordingly, the instant petition is subject to dismissal.

Any renewed petition must be accompanied by the required fee due.

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

Giok Djien Go
Pfahlgrabenstr 45
Idstein D 655-10 DE GERMANY

COPY MAILED

SEP 22 2008

OFFICE OF PETITIONS

In re Application of
Go
Application No. 10/204,827
Filed: January 9, 2003
For: DEVICE FOR DETECTING THE USE OF A BELT AND THE SERVICE LIFE OF THE RESTRAINT SYSTEMS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned November 24, 2004 for failure to timely submit a proper reply to the restriction requirement mailed September 23, 2004. The restriction requirement set a one month shortened statutory period of time for reply. A one month extension of time was obtained. Notice of Abandonment was mailed October 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the restriction requirement on July 15, 2007 in the form of an election, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

A review of Office finance records reveals that petition has overpaid for the petition fee. Petitioner submitted an additional $700.00 on July 30, 2007. Petitioner submitted an additional $750.00 on October 1, 2007. Thus, petition is entitled to a refund of the excess fees submitted, or $1,450.00. Petitioner may request a refund of these excess fees ($1,450.00) by writing to the Finance Office, Refund Section. A copy of this decisions should accompany any request for refund.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 3616 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

30 AUG 20

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

John R. Thompson
Stoel Rives LLP
One Utah Center
201 South Main Street, Suite 1100
Salt Lake City, UT 84111

In re Application of CROSS et al
U.S. Application No.: 10/204,853
Int. Application No.: PCT/GB00/04298
Int. Filing Date: 10 November 2000
Priority Date: 18 November 1999
Attorney Docket No.: 50055/3:1
For: SENSOR ASSEMBLY

DECISION

This is in response to applicant's "Petition Pursuant to 37 C.F.R. §1.10(e)" and "Petition to the Commissioner Pursuant to 37 C.F.R. § 1.181" filed 21 August 2002. The latter petition is being treated under 37 CFR 1.182. The petition fee set forth in 37 CFR 1.17(h) has been charged to Deposit Account No. 50-2375 per applicant's authorization.

BACKGROUND

On 10 November 2000, applicant filed international application PCT/GB00/04298, which claimed priority of an earlier United Kingdom application filed 18 November 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 May 2002 (18 May 2002 was a Saturday).

On 20 May 2002, according to the petition under 37 CFR 1.10(e), applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail").

On 21 August 2002, applicant filed the present petition under 37 CFR 1.10(e). The petition requests that the accompanying copies of national stage application papers be treated as having been originally filed on 20 May 2002. The petition under 37 CFR 1.10(e) is accompanied

by a petition under 37 CFR 1.182, which is being treated as a request to correct the Transmittal Letter so that it references International Application Number PCT/GB00/04298 instead of International Application Number PCT/GB00/02363.

DISCUSSION

I. Petition Under 37 CFR 1.10(e)

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(e) states,

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the Express Mail Post Office to Addressee service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon, a copy of any returned postcard receipt, a copy of the Express Mail mailing label showing the date-in, a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the date-in on the Express Mail mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the Express Mail mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original Express Mail mailing label, returned postcard receipt, and official notation entered by the USPS.

With regard to item (1) above, the petition states that applicant became aware on 16 August 2002 that the USPTO had no evidence of receipt of the correspondence in question. The petition was promptly filed thereafter.

With regard to item (2) above, the Express Mail number listed on the copy of the Express Mail certificate of mailing matches the Express Mail number on the Customer Copy of the

Express Mail mailing label. This indicates that the Express Mail number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the petition is accompanied by a copy of the originally deposited papers and a copy of the Express Mail mailing label showing a "date-in" of 20 May 2002.

With regard to item (4) above, the petition contains an appropriate statement that the copies of the originally deposited correspondence and Express Mail mailing label are true copies.

Thus, applicant has satisfied all the requirements of 37 CFR 1.10(e).

II. Petition Under 37 CFR 1.182

A review of the application papers reveals that the Transmittal Letter references International Application Number PCT/GB00/02363 while the copies of the international application, International Search Report, and International Preliminary Examination Report reference International Application Number PCT/GB00/04298. The petition states that the error in the Transmittal Letter was inadvertent. Applicant's explanation for the discrepancy is accepted.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.10(e) is GRANTED.

For the reasons set forth in §II above, the petition under 37 CFR 1.182 is GRANTED.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including: 1) according the copies of the national stage application papers an original filing date of 20 May 2002 and 2) mailing a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

12 MAY 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

STOEL RIVES LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET, SUITE 1100
SALT LAKE CITY UT 84111

In re Application of CROSS et al. Application No.: 10/204,853 PCT No.: PCT/GB00/04298 Int. Filing: 10 November 2000 Priority Date: 18 November 1999 Attorney Docket No.: 50055/3:1 For: SENSOR ASSEMBLY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.10(e) and 1.182

This is a decision on applicant's petition under 37 CFR 1.10(e) and 1.182, filed in the United States Patent and Trademark Office (USPTO) on 22 February 2006 to request that the national stage application be treated as having been originally filed on 20 May 2002 and to correct the reference in the Transmittal Letter to the correct international application number, PCT/GB00/04298.

On 20 May 2002, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 21 August 2002, applicant filed a petition under 37 CFR 1.10(e) requesting that a copy of the national stage application papers be treated as having been originally filed on 20 May 2002. The petition was accompanied by a petition under 37 CFR 1.182, requesting correction of the Transmittal Letter so that it referenced International application no. PCT/GB00/04298, instead of International application no. PCT/GB00/02363.

On 30 August 2002, applicant's petitions under 37 CFR 1.10(e) and 1.182 were granted. U.S. application number 10/204,853 is the national stage application of PCT/GB00/04298. The copy of the national stage papers filed on 21 August 2002 were treated as filed on 20 May 2002.

On 22 February 2006, applicant filed petitions under 37 CFR 1.10(e) and 1.182, which are identical to those filed on 21 August 2002. As the petitions under 37 CFR 1.10(e) and 1.182 were granted on 20 August 2002 (copy enclosed), the petitions under 37 CFR 1.10(e) and 1.182 filed on 26 February 2006 are considered MOOT.

For the above reasons, the petitions under 37 CFR 1.10(e) and 1.182 are considered **MOOT**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286

Enclosure: Decision mailed 30 August 2002

22 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

C.J. Zeller
THE PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
Winton Hill Technical Center - Box 161
6110 Center Hill Road
Cincinnati, Ohio 45224

In re Application of
STRAND, Catherine Margaret *et al*
U.S. Application No.: 10/204,875
PCT No.: PCT/US01/01466
Int. Filing Date: 17 January 2001
Priority Date: 19 January 2000
Attorney Docket No.: CM2279
For: HAIR COLOURING COMPOSITIONS

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 23 August 2002 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee has been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 16-2480 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 January 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **23 August 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEFFREY M. GREENMAN
VICE PRESIDENT, PATENTS AND LICENSING
BAYER CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

COPY MAILED

SEP 19 2005

OFFICE OF PETITIONS

In re Application of	:	
KALBE, Jochen et al.	:	DECISION
Application No.: 10/204,880	:	
Filing Date: August 22, 2002	:	ON PETITION UNDER
Docket No.: AH/LeA 34 266	:	
For: ENDOPARASITICIDAL AGENTS	:	37 CFR 1.137(b)

This is a decision on the petition filed on December 28, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned at midnight on June 24, 2004, for failure to file a timely proper reply to the final Office action mailed on February 24, 2004, which set a three (3) month shortened statutory period for reply. Applicant obtained a one month extension of the time for reply in accordance with 37 CFR 1.136(a), but applicant's amendment filed on June 28, 2004, with a certificate of mailing indicating a deposit date of June 24, 2004, did not put the application in a condition for allowance. An advisory action was mailed on August 24, 2004. Notice of Abandonment was mailed on November 16, 2004. Petitioner filed an amendment after final rejection and a petition under 37 CFR 1.137(b) on December 28, 2004, accompanied by the petition fee.

Applicants have not furnished the required reply. The 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. The examiner has determined that the amendment filed on December 28, 2004, does not place the case in *prima facie* condition for allowance. The Examiner's Advisory Action is enclosed. Petitioner must submit a proper reply to the final Office action mailed on February 24, 2004, with any renewed petition.

Further correspondence with respect to this matter should be addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Telephone: 571-272-3292
Facsimile: 571-273-0459

Enc: Advisory Action Before the Filing of an Appeal Brief

UNITED STATES 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 26 2007

OFFICE OF PETITIONS

BAYER HEALTHCARE LLC
P.O.BOX 390
SHAWNEE MISSION, KS 66201

In re Application of	:	
KALBE, Jochen et al.	:	DECISION
Application No.: 10/204,880	:	
Filing Date: August 22, 2002	:	ON PETITION UNDER
Docket No.: AH/LeA 34 266	:	
For: ENDOPARASITICIDAL AGENTS	:	37 CFR 1.137(b)

This is a decision on the petition filed on August 16, 2007, alleging unintentional delay under 37 C.F.R. §1.137(b).[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned at midnight on June 24, 2004, for failure to file a timely proper reply to the final Office action mailed on February 24, 2004, which set a three (3) month

---

[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)).

shortened statutory period for reply. Applicant obtained a one month extension of the time for reply in accordance with 37 CFR 1.136(a), but applicant's amendment filed on June 28, 2004, with a certificate of mailing indicating a deposit date of June 24, 2004, did not put the application in a condition for allowance. An advisory action was mailed on August 24, 2004. Notice of Abandonment was mailed on November 16, 2004. Petitioner filed an amendment after final rejection and a petition under 37 CFR 1.137(b) on December 28, 2004, accompanied by the petition fee. On September 19, 2005, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicant's petition for revival indicating that the amendment was not a proper reply as it did not put the application in *prima facie* condition for allowance. The decision set a two month extendable period for reply. On 16 August 2007, applicant filed a renewed petition to revive under 37 CFR 1.137(b) and a Request for Continued Examination (RCE).

Applicant has now furnished the required reply in the form of a Request for Continued Examination (RCE).

However, this application has been abandoned since 2004. On September 19, 2005, applicant was notified that this application was still abandoned and that applicant had a two month extendable period for reply. Nearly 23 months later, applicant has filed this renewed petition to revive. Applicant's statement that the delay resulted from communication difficulties is not sufficient.

While the required statement has been provided, additional information explaining the delay is now required. Specifically, applicant must provide a more detailed explanation of the lengthy delay in filing second petition to revive, as the entire delay must be unintentional for the application to be revived. Applicant must explain the original delay in filing an appropriate response that resulted in the abandonment of the application, the delay in filing the first petition to revive and the appropriate reply, and the delay in filing the second petition to revive with the appropriate reply. MPEP 711.03(c)(III)(D). In particular, the Office wants to know where these files were located throughout this time, when did the various attorneys become aware of the abandonment of the application, when did applicant become aware of the abandonment and what provisions did the various attorneys have in place to track applications and their due dates, to prevent abandonments. Copies of documentary evidence that support the contention that the entire delay was unintentional should be submitted.

Further correspondence with respect to this matter should be addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Leonard E. Smith
Supervisory Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-26-06

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/204881 Patent No.: 7027882

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.

Check Drawings

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID VINCENT
SUPERVISORY PATENT EXAMINER

SPE

2129
Art Unit

18 APR 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Barry F. McGurl
CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of: OLAVESEN, Mark, et al.	:	
U.S. Application No.: 10/204,884	:	
PCT No.: PCT/GB01/00795	:	DECISION
International Filing Date: 23 February 2001	:	
Priority Date: 23 February 2000	:	
Attorney's Docket No.: KILS119632	:	
For: TEST AND MODEL FOR INFLAMMATORY DISEASE	:	

This decision is issued in response to applicants' "Correction Of Typographical Error In Spelling Of Inventors' Names" filed on 29 January 2003 as part of applicants' response to the Notification Of Missing Requirements mailed 01 October 2002. No petition fee is required.

BACKGROUND

On 23 February 2001, applicants filed international application PCT/GB01/00795 which claimed a priority date of 23 February 2000 and which designated the United States. On 30 August 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 17 September 2001, applicants filed a Demand with the International Preliminary Examination Authority electing the United States. Because this Demand was filed within nineteen months of the priority date, the deadline for submission of the basic national fee was extended until thirty months from the priority date, i.e., 23 August 2002.

On 22 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 01 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and sequence listing materials were required.

On 29 January 2003, applicants filed a response to the Notification Of Missing Requirements. The response included, among other materials, sequence listing materials, an executed declaration in which the name of two of the inventors contained spelling differences from that listed in the international application, and the request for "Correction Of Typographical Error In Spelling Of Inventors' Names" considered herein.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required. Pursuant to applicants' statement that the spelling errors resulted from typographical errors, the spelling of the inventors' names are corrected as requested. Specifically, the name of the inventor listed in the international application as Mark OLAVESON is corrected to **Mark OLAVESEN** and the name of the inventor listed in the international application as Rachind TAZI-AHNINI is corrected to **Rachid TAZI-AHNINI**.

Taking into account these corrections, the declaration filed by applicants on 29 January 2003 is acceptable in compliance with 37 CFR 1.497.

CONCLUSION

Pursuant to applicant's request, the spelling of the inventors' names are corrected (as specifically set forth above).

The declaration filed on 29 January 2003 is accepted in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The 35 U.S.C. 371 date is 29 January 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

14 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Richard S. Roberts
Roberts & Mercanti LLP
PO Box 484
Princeton, NJ 08542-0484

In re Application of MAHRT, Karl-Heinz Application No.: 10/204,890 PCT No.: PCT/EP01/01338 Int. Filing Date: 08 February 2001 Priority Date: 21 February 2000 Attorney Docket No.: RF-31 For: COMPACT PRECISION MEASURING HEAD, WHICH IS RESISTANT TO HIGH PRESSURE, FOR MEASURING THE OPTICAL REFRACTION	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 05 December 2002.

BACKGROUND

On 08 February 2001, applicant filed international application PCT/EP01/01338, which claimed a priority date of 21 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2002.

On 16 August 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 October 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 December 2002, applicant submitted the instant petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached

after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), and (6) have been met. (1) The petition fee of $130 under 37 CFR 1.17(h) has been paid. (3) Applicant states the last known mailing address of Karl-Heinz Mahrt as Ostring 194, 244143 Kiel, Germany. (6) Applicant has made a sufficient showing of irreparable harm.

Item (2) has not been met. To establish refusal, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. MPEP §409.03(d). Applicant only makes mention of sending the declaration, which is not sufficient.

Item (4) has not been met. A declaration was provided signed by Abolfath Hosseinioun, "agent for Karl-Heinz Mahrt". Under 37 C.F.R. §1.497(b)(2), "if the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or §1.47), the oath or declaration shall state the relationship of the person to the inventor." Mr. Hosseinioun claims to be the assignee in his "Declaration In Support of a Petition Under 37 C.F.R. 1.47". An agent would not have power to execute a declaration on behalf of the inventor. See MPEP §605.04(a). Additionally, there is no evidence that Mr. Hosseinioun is an agent of Mr. Mahrt.

Item (5) has not been met. Applicant has provided an English translation of a contract and the German language original and an English translation of the Addendum. The signed German language agreement was not furnished. Additionally, "when such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant." MPEP §409.03(f). Mr. Hosseinioun states a legal conclusion that he is owner of the subject invention, but does not state the required facts. Namely, he does not state that he has first hand knowledge that the invention was made by Mr. Mahrt, while under contract to Mr. Hosseinioun and within the scope of that contract.

It is further noted, that the translations of the contract and addendum and the signature page of the Addendum appear to indicate that the contracting parties were Mr. Mahrt and Goal International, not Mr. Mahrt and Mr. Hosseinioun.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

17 SEP 200

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard S. Roberts
Roberts & Mercanti LLP
PO Box 484
Princeton, NJ 08542-0484

In re Application of	:	
MAHRT, Karl-Heinz	:	
Application No.: 10/204,890	:	
PCT No.: PCT/EP01/01338	:	DECISION ON
Int. Filing Date: 08 February 2001	:	
Priority Date: 21 February 2000	:	PETITION UNDER
Attorney Docket No.: RF-31	:	
For: COMPACT PRECISION MEASURING HEAD, WHICH IS RESISTANT TO HIGH PRESSURE, FOR MEASURING THE OPTICAL REFRACTION	:	37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 11 April 2003.

BACKGROUND

On 08 February 2001, applicant filed international application PCT/EP01/01338, which claimed a priority date of 21 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2002.

On 16 August 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 October 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 December 2002, applicant submitted a petition under 37 CFR 1.47(b).

On 14 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 11 April 2003, applicant submitted a renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort,

(3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), and (6) were previously met.

Items (4) and (5) have now been met.

Item (2) has not been met. To establish refusal, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. MPEP §409.03(d). Mr. Roberts' declaration is the only statement from someone with firsthand knowledge of the presentation of the application papers to the non-signing inventor. Mr. Hosseinioun merely indicates that he told his attorneys to do so.

Mr. Roberts indicates that he submitted the necessary paperwork to Mr. Mahrt by facsimile on 08 April 2003 and 10 April 2003, asking him to return the signed declaration by both facsimile and mail and that Mr. Mahrt had not returned the signed declaration at the time of Mr. Roberts' declaration. Mr. Roberts' declaration was signed on 11 April 2003. This is insufficient time to demonstrate a refusal. Additionally, Mr. Roberts' has not provided any evidence that the paperwork was received by Mr. Mahrt.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

10 MAR 200

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard S. Roberts
Roberts & Mercanti LLP
PO Box 484
Princeton, NJ 08542-0484

In re Application of MAHRT, Karl-Heinz Application No.: 10/204,890 PCT No.: PCT/EP01/01338 Int. Filing Date: 08 February 2001 Priority Date: 21 February 2000 Attorney Docket No.: RF-31 For: COMPACT PRECISION MEASURING HEAD, WHICH IS RESISTANT TO HIGH PRESSURE, FOR MEASURING THE OPTICAL REFRACTION	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47," filed in the United States Patent and Trademark Office (USPTO) on 14 November 2003.

BACKGROUND

On 08 February 2001, applicant filed international application PCT/EP01/01338, which claimed a priority date of 21 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2002.

On 16 August 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 October 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 December 2002, applicant submitted a petition under 37 CFR 1.47(b).

On 14 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 11 April 2003, applicant submitted a renewed petition under 37 CFR 1.47(b).

On 17 September 2003, the Office mailed Decision on Petition dismissing applicant's petition without prejudice.

On 14 November 2003, applicant submitted the second renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4), (5) and (6) were previously satisfied.

Item (2) has now been satisfied. The letter from Mr. Mahrt evidences his refusal to execute the declaration.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of **11 April 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

10 MAR 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

Karl-Heinz Mahrt
Ostring 194
244143 Kiel
Germany

In re Application of
MAHRT, Karl-Heinz
Application No.: 10/204,890
PCT No.: PCT/EP01/01338
Int. Filing Date: 08 February 2001
Priority Date: 21 February 2000
Attorney Docket No.: RF-31
For: COMPACT PRECISION MEASURING HEAD, WHICH IS RESISTANT TO HIGH PRESSURE, FOR MEASURING THE OPTICAL REFRACTION

Dear Mr. Mahrt:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

By authority for
Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

Richard S. Roberts
Roberts & Mercanti LLP
PO Box 484
Princeton, NJ 08542-0484

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

01162006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

JAN 26 2006

In re Application of	:	
HAFT et al.	:	DECISION ON PETITION
Application No. 10/204,900	:	
Filed: August 28, 2002	:	
Attorney Docket No. 05281.0013	:	

This is a decision on the petition filed March 28, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is DENIED.

A Notice of Allowance and Fee(s) Due was mailed on August 26, 2004, setting a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner asserts that a Request for Continued Examination (RCE) was timely filed on July 16, 2004 prior to the end of the statutory period to respond to the Notice of Allowance and Fee(s) Due mailed April 19, 2004. This is evidenced by a copy of the request for a RCE and the postcard receipt indicating receipt of the RCE in the Patent and Trademark Office on July 16, 2004. Petitioner also asserts that the Notice of Abandonment is the first paper applicants have received since filing the RCE.

A review of the written record indicates receipt of the RCE, fees and an Information Disclosure Statement on July 16, 2004. The record also indicates that a second Notice of Allowance and Fee(s) Due was mailed on August 26, 2004 in response to the RCE. It is from this second Notice of Allowance and Fee(s) Due that the application became abandoned for failure to pay the issue fee.

The law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Finnegan) that filed the RCE did not submit a change of address at the time of filing. The second Notice of Allowance and Fee(s) Due was mailed to the correspondence address of record (Staas and Halsey, LLP). The correspondence address for Finnegan was not of record until a Revocation, Grant of New Power of Attorney and change of address was filed on October 14, 2004.

Clearly the application did not go abandoned for failure to process the RCE. Petitioner's failure to pay the issue fee resulted in the application being held abandoned.

While it is regrettable that the Notice of Abandonment was the first paper received after filing the RCE, applicant may wish to petition pursuant to M.P.E.P. §711.03(c) and demonstrate that the second Notice of Allowance and Fee(s) Due mailed August 26, 2004 was not in fact received at the correspondence address of record at the time it was mailed.

For the above reasons, the petition to withdraw the holding of abandonment is denied.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductor, 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

FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

MAR 03 2006

OFFICE OF PETITIONS

In re Application of
Michael Haft et al. :
Application No. 10/204,900 :
Filed: October 22, 2002 :
Attorney Docket Number: 1454.1332 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 2006 to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee by November 26, 2004 in response to the Notice of Allowance mailed August 26, 2004. Accordingly, a Notice of Abandonment was mailed March 7, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter 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)).

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

11 AUG 2003

KUBOVCIK & KUBOVCIK
Suite 710
900 17th Street, NW
Washington, D.C. 20006

In re Application of
YAMAGATA, Kazuo *et al*
Application No.: 10/204,915
PCT No.: PCT/JP00/01152
Int. Filing Date: 28 February 2000
Priority Date: None
Attorney's Docket No.: YTO-002
For: A MULTI-LAYER SHEET, A MANUFACTURING METHOD OF THE MULTI-SHEET . . .

DECISION

The decision is in response to applicants' "Response to and Request for Withdrawal of Notification . . . " filed on 11 June 2003 and again via facsimile on 09 July 2003 which is treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, a purported English translation of the international application as filed.

On 02 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and 35 U.S.C. requirements of 27 August 2002.

On 27 January 2003, the DO/EO/US mailed a Withdrawal of Previously Sent Notice vacating the Form PCT/DO/EO/903. A Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (PCT/DO/EO/905) was also mailed indicating that a new translation was required. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 27 March 2003, applicants filed a "Response to the Notice of Missing . . . " insisting that a translation of the international application as filed was submitted. This response was accompanied by, *inter alia*, a preliminary amendment.

On 12 May 2003, the DO/EO/US mailed a Notification of Defective Response

(Form PCT/DO/EO/916) indicating that the translation of the international application was defective because the translation of the application and the article 34 amendments were the same. This Notification required a response within one-month from the date of mailing thereof or within the time remaining for response set forth in the Form PCT/DO/EO/905. No further extensions of time were available.

On 11 June 2003 and again via facsimile on 09 July 2003, applicants filed the instant petition titled "Response to and Request for Withdrawal of Notification of Defective Response and Request for Refund" claiming that a proper translation was filed on 27 August 2002.

DISCUSSION

In the response filed 11 June 2003, applicants claim that the English translation originally submitted with the national stage papers on 27 August 2002 was not defective.

Applicants argue that the following papers were submitted on 27 August 2002: (1) a translation of the international application into English; (2) a document titled "Amendment Under PCT Article 34"; and (3) a transmittal titled "TRANSMITTAL OF ENGLISH TRANSLATION OF AMENDMENTS UNDER PCT ARTICLE 34 WITH MARKINGS TO SHOW CHANGES MADE."

A review of the above-captioned application verifies that a proper English translation of the international application, PCT/JP00/01152, was submitted with the national stage papers on 27 August 2002.

CONCLUSION

Applicants' petition under 37 CFR 1.181 requesting that the Notification of Defective Response be withdrawn is hereby **GRANTED**.

The Notification of Missing Requirements (FORM PCT/DO/EO/905) and Withdrawal of Previously Sent Notice mailed 27 January 2003 and the Notification of Defective Response (FORM PCT/DO/EO/916) mailed 12 May 2003 are **VACATED**.

The processing fee of $130.00 will be credited to Deposit Account No. 11-1833.

Accordingly, the Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed 02 October 2002 indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and 35 U.S.C. requirements of 27 August 2002 is **EFFECTIVE**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

25 JUL 20

UNITED STA PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

INCYTE GENOMICS, INC.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	DECISION ON
Panzer et al	
PCT No.: PCT/US01/05896	
Application No: 10/204,921	
Int. Filing Date: 21 February 2001	PETITION UNDER
Priority Date: 24 February 2000	
Attorney's Docket No.: PT-1133 USN	
For: MOLECULES FOR DISEASE DETECTION AND TREATMENT	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" filed on 11 March 2003. The requisite $130 petition fee has been paid by check.

BACKGROUND

On 21 February 2001, applicants filed international application PCT/US01/05896, which claimed priority of an earlier application filed 24 February 2000. A DEMAND was filed on 24 September 2001 prior to the expiration of 19 months from the priority date electing the United States. Accordingly, the thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 24 August 2002.

On 23 August 2002, applicants filed for entry into the national stage in the United States of America. Filed with the application was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the application at such time.

On 07 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 07 October 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 11 March 2003, petitioner filed the present petition accompanied, inter alia, an executed Composite Declaration without the signature of one of the thirty-four inventors, i.e., without the signature of Gerard Dufour.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

The averments of Diana Hamlet-Cox, Katherine Stofer, and Lyza Finuliar are inconsistent because Ms. Hamlet-Cox asserts that Mr. Dufour could not be found or reached, after diligent effort, and Ms. Stofer and Ms. Finuliar's declaration states that the tracking system of Federal Express' confirmed that the package was delivered to the address of 5327 Greenridge Road, Castro Valley, California 94552-2619 on November 23, 2002. A review of the FedEX tracking system in the comment section indicates that it was signed for by Jerry Dufour.

Furthermore, if Mr. Dufour could not be found or reached as stated by Ms. Hamlet-Cox, petitioners have not shown that they have made a diligent effort to locate the above non-signing inventor's new address.

Consequently, at this time it can not be concluded that the nonsigning Mr. Dufour could not be found after diligent effort.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

17 SE[illegible]003

#7

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

INCYTE GENOMICS, INC.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
Panzer et al	:	
PCT No.: PCT/US01/05896	:	
Application No: 10/204,921	:	
Int. Filing Date: 21 February 2001	:	RENEWED PETITION
Priority Date: 24 February 2000	:	
Attorney's Docket No.: PT-1133 USN	:	
For: MOLECULES FOR DISEASE	:	
DETECTION AND TREATMENT	:	UNDER 37 CFR 1.47(a)

This decision is in response to applicants' " COMMUNICATION" filed on 07 April 2003, which is being treated as a renewed petition under 37 CFR 1.47(a) in response to a decision by this Office dated 25 July 2003.

BACKGROUND

The decision by this Office dated 25 July 2003 indicated that the record did not support that Mr. Dufour could not be found or reached after diligent effort.

On 07 April 2003, petitioner filed this renewed petition accompanied by, inter alia, an executed declaration by Gerard E. DUFLOUR, the remaining nonsigning inventor.

DISCUSSION

The petition states that an executed declaration by inventor Gerard E. DUFOUR is provided, and all the requirements have been met.

The declaration is now signed by all the inventors. Accordingly, the declaration submitted on 07 April 2003 complies with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.47(a) is **MOOT.**

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **07 April 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

18 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Scott R. Cox
400 West Market Street, Suite 2200
Louisville, KY 40202

In re Application of SCHALL et al	:	
U.S. Application No.: 10/204,928	:	DECISION ON PETITION
Int. Application No.: PCT/EP00/02115	:	
Int. Filing Date: 10 March 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 07 May 1999	:	
Attorney Docket No.: P-1148	:	
For: FLAMEPROOF POLYMER COMPOSITION	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 August 2002.

BACKGROUND

On 10 March 2000, applicant filed international application PCT/EP00/02115, which claimed priority of an earlier Germany application filed 07 May 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 16 November 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 November 2001.

International application PCT/EP00/02115 became abandoned as to the United States at midnight on 07 November 2001 for failure to pay the basic national fee.

On 13 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the basic national fee required under 35 U.S.C. 371.

On 24 August 2002, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#6

20 MAY 2003

John S. Child, Jr.
DANN DORFMAN HERRELL AND SKILLMAN
1601 Market Street
Suite 720
Philadelphia, PA 19103-2307

In re Application of:	:	
LANGLER, Richard, Francis, et al.	:	
U.S. Application No.: 10/204,944	:	DECISION
PCT No.: PCT/CA01/00234	:	
International Filing Date: 26 February 2001	:	
Priority Date: 25 February 2000	:	
Attorney's Docket No.: Swabey.2011	:	
For: SULFUR CONTAINING COMPOUNDS	:	

This decision is issued in response to applicants' 21 January 2003 submission of a declaration containing the correction of a typographical error in the spelling of one of the inventor's names." No petition fee is required.

BACKGROUND

On 26 February 2001, applicants filed international application PCT/CA01/00234 which claimed a priority date of 25 February 2000 and which designated the United States. On 30 August 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 24 September 2001, applicants filed a Demand with the International Preliminary Examination Authority electing the United States. Because this Demand was filed within nineteen months of the priority date, the deadline for submission of the basic national fee was extended until thirty months from the priority date, i.e., 26 August 2002 (25 August 2002 was a Sunday).

On 26 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 21 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date was required.

On 21 January 2003, applicants filed a response to the Notification Of Missing Requirements. The response included the required surcharge, the fee for a one month extension

of time, and an executed declaration. The response noted that the name of one of the inventors had been changed to correct a typographical error. Specifically, the name of the inventor listed as Felix J. Baerlocker in the international application was listed in the declaration as Felix J. Baerlocher.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required. Pursuant to applicants' statement that the error resulted from an incorrect spelling in the international application, the spelling of the inventor's name is corrected as requested. Specifically, the name of the inventor listed in the international application as Felix J. BAERLOCKER in the international application is corrected to Felix J. BAERLOCHER.

Taking into account this correction, the declaration filed by applicants on 21 January 2003 is acceptable in compliance with 37 CFR 1.497.

CONCLUSION

Pursuant to applicant's request, the spelling of the inventor's name is corrected (as specifically set forth above).

The declaration filed on 21 January 2003 is accepted in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The 35 U.S.C. 371 date is 21 January 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Patent No. 6,992,808	:	
Issue Date: January 31, 2006	:	
Application No. 10/204,948	:	DECISION ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. 09794353-0026	:	

This is a decision on the petition filed on March 10, 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 Certificate of Correction.

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.

Upon a review of the records, it does not appear that the assignment to Sony Deutschland GmbH was submitted for recordation as set forth in 3.11 before issuance of the patent. The Notice of Recordation of Assignment Document provided by petitioner indicates that the assignment to Sony Deutschland GmbH was recorded on February 10, 2006, after the patent issued on January 31, 2006.

Accordingly, the request is **dismissed**.

[1] *See* Official Gazette of June 22, 2004.

The Office finance records indicate that petitioner's Deposit Account was overcharged in the amount of $270.00. Accordingly, the Deposit Account will be credited the $270.00.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Patent No. 6,992,808 :
Issue Date: January 31, 2006 :
Application No. 10/204,948 : DECISION ON PETITION
Filed: March 6, 2003 :
Attorney Docket No. 09794353-0026 :

This is a decision on the renewed petition under 37 CFR 3.81(b), filed on August 31, 2006, to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

Again, petitioner requested that the patent be corrected to reflect the assignee name as Sony Deutschland GmbH. Petitioner explained that Sony Deutschland GmbH is the surviving company of a merger between Sony International (Europe) GmbH and Sony Deutschland GmbH. The assignment, in the form of a merger, to Sony Deutschland GmbH was recorded in the USPTO on February 10, 2006, subsequent to the issuance of the patent. In the alternative, petitioner requested that the Office issue a Certificate of Correction to include the second assignee at the time the patent issued, Sony International (Europe) GmbH.

As stated in the previous decision, the Office will grant a request to correct a patent to state the name of an assignee if the requirements of 37 CFR 3.81(b) are meet. In this instance, the assignment, in the form of a merger, to Sony Deutschland GmbH was not submitted for recordation until after issuance of the patent. Moreover, "[a]ssignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the issuance of the patent." MPEP 307. Therefore, it would be improper to issue a Certificate of Correction to included Sony Deutschland GmbH. Nevertheless, it is appropriate for the Office to issue a Certificate of Correction to include the name of the second assignee, Sony International (Europe) GmbH, which was recorded with the USPTO prior the issuance of the patent.

Accordingly, the request is <u>granted</u> to the extent that the Office will correct the assignment information on the front page of the patent by way of Certificate of Correction to include the second assignee, Sony International (Europe) GmbH.

The $100.00 Certificate of Correction fee will be charged to the Deposit Account as authorized.

This matter is being referred to the Certificate of Correction Branch for processing of the Certificate of Correction in accordance with this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

02 MAR 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Christian D. Abel
Onsagers.AS.
Postboks 6963 St. Olavs Plass
Oslo, N-0130
Norway

In re Application of :
WERNER, Per Gunnar :
Application No.: 10/204,949 :
PCT Application No.: PCT/NO01/00078 : DECISION
International Filing Date: 28 February 2001 :
Priority Date: 28 February 2000 :
Attorney Docket No.: 411202 :
For: DEVICE AND METHOD FOR :
EXCISING HAIR GRAFTS :

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" under 37 CFR 1.181, filed on 02 December 2003. No petition fee is due.

BACKGROUND

On 28 February 2001, applicant filed international application number PCT/NO01/00078, which claimed priority to an earlier filed Norwegian application filed on 28 February 2000. A copy of the international application was transmitted to the USPTO by the International Bureau on 07 September 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 September 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 28 August 2002.

On 26 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee.

On 16 October 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371, which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 November 2003, the DO/EO/US mailed a Notice of Abandonment, which indicated that the application is abandoned for failure to respond to the 16 October 2002 communication.

10/204,949

On 02 December 2003, applicant filed the present petition to withdraw the holding of abandonment. Among applicant's petition papers, applicant has included a copy of a declaration by the inventor for this application.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With respect to item (1) above, the practitioner has provided the required statement.

With respect to item (2) above, the practitioner has not provided the required statement.

With respect to item (3) above, the practitioner has not provided a copy of the docket record.

CONCLUSION

Because applicant has failed to satisfy items (2) and (3) above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, USA and address the contents of the letter to the attention of the Office of PCT Legal Adminstration.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

Enclosure:
PCT/DO/EO/905, dated 16 October 2002

3 0 MAR 2004

#18

UNITED STATES PATENT AND TRADEMARK OFFICE

3 1 MAR 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Christian D. Abel
Onsagers AS
Postboks 6963 St. Olavs Plass
Oslo, N-0130
Norway

In re Application of	:	
WERNER, Per Gunnar	:	
Application No.: 10/204,949	:	
PCT Application No.: PCT/NO01/00078	:	DECISION
International Filing Date: 28 February 2001	:	
Priority Date: 28 February 2000	:	
Attorney Docket No.: 411202	:	
For: DEVICE AND METHOD FOR	:	
EXCISING HAIR GRAFTS	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181," filed on 25 March 2004. This renewed petition is DISMISSED without prejudice. No petition fee is due.

BACKGROUND

On 02 March 2004, applicant's "Petition to Withdraw Holding of Abandonment" under 37 CFR 1.181, filed on 02 December 2003, was dismissed without prejudice. Applicant had failed to provide a statement that practitioner had performed a search of the application file jacket and docket records and that the search indicates that the Notice of Missing Requirements, mailed on 16 October 2002 with a two-month response due date, had not been received. Applicant had failed to provide a copy of the docket record where the non-received Notice would have been entered had it been received and docketed. By the presently filed renewed petition, practitioner has responded to these deficiencies.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With respect to item (1) above, the practitioner has provided the required statement in the Petition filed on 02 December 2003.

With respect to item (2) above, the practitioner has not provided the required statement. While practitioner has stated that practitioner has searched the file jacket, practitioner has not stated that practitioner has searched the docket records. Therefore, the requirement of item (2) above has not been satisfied.

With respect to item (3) above, the submitted docket listing is insufficient. The insufficiency arises because practitioner has only provided a list of file jacket papers for Application Serial Number: 10/204,949. The due date for response to the Notice of Missing Requirements (FORM PCT/DO/EO/905), mailed on 16 October 2002, was 16 December 2002. Applicant's practitioner should supply a copy of the docket record for all cases handled by the practitioner's firm that lists all responses due to the USPTO on 16 December 2002. If such a copy of the docket record is unavailable, applicant's practitioner should supply a copy of the docket record for all cases handled by applicant's practitioner that lists all responses due to the USPTO on 16 December 2002. Whether the presented copy of the docket record is that of the firm or that of only the practitioner should be clearly indicated. This docket record must illustrate the absence of any listing of a due response for the non-received Notification of Missing Requirements (FORM PCT/DO/EO/905). Without the required showing, the requirement of item (3) above has not been satisfied.

Practitioner has expressed concern that a declaration for Application Serial Number: 10/204,949, filed on 16 September 2002, may be present in another of applicant's filewrappers. At the time of preparing the 02 March 2004 decision, the filewrappers for Application Serial Numbers: 10/220,505, 10/204,490, and 10/220,875 were reviewed, and no declaration for Application Serial Number: 10/204,949 was present.

CONCLUSION

Because applicant has failed to satisfy items (2) and (3) above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.181." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

26 APR 2004

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Christian D. Abel
Onsagers AS
Postboks 6963 St. Olavs Plass
Oslo, N-0130
Norway

In re Application of	:	
WERNER, Per Gunnar	:	
Application No.: 10/204,949	:	
PCT Application No.: PCT/NO01/00078	:	DECISION
International Filing Date: 28 February 2001	:	
Priority Date: 28 February 2000	:	
Attorney Docket No.: 411202	:	
For: DEVICE AND METHOD FOR	:	
EXCISING HAIR GRAFTS	:	

This is in response to applicant's "Second Renewed Petition Under 37 CFR 1.181," filed on 13 April 2004 [hereinafter, "Second Renewed Petition"]. This Second Renewed Petition is GRANTED. No petition fee is due.

BACKGROUND

On 02 March 2004, applicant's "Petition to Withdraw Holding of Abandonment" under 37 CFR 1.181, filed on 02 December 2003, was dismissed without prejudice. On 31 March 2004, applicant's "Renewed Petition Under 37 CFR 1.181," filed on 25 March 2004, was dismissed without prejudice. Applicant had failed to provide a statement that practitioner had performed a search of the practitioner's docket records and that the search indicates that the Notification of Missing Requirements, mailed on 16 October 2002 with a two-month response due date, had not been received. Applicant had failed to provide a copy of practitioner's docket record where the non-received Notification would have been entered had it been received and docketed. By the presently filed Second Renewed Petition, practitioner has responded to these deficiencies.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With respect to item (1) above, the practitioner has provided the required statement in the Petition filed on 02 December 2003.

With respect to item (2) above, the practitioner has provided the required statement in this Second Renewed Petition, filed on 13 April 2004.

With respect to item (3) above, practitioner's docket record evidences no response due on 16 December 2002 on account of receipt of a Notification of Missing Requirements mailed on 16 October 2002. The requirement of item (3) above has been satisfied.

Applicant has satisfied requirements (1) through (3) above. Therefore, the holding of abandonment is withdrawn.

CONCLUSION

Because applicant has satisfied items (1) through (3) above, the petition is GRANTED.

The application has an international filing date of 28 February 2001 under 35 USC 363 and a date of 02 December 2003 under 35 USC 371(c)(1), (c)(2), and (c)(4).

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

COPY MAILED

MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephan Leuthner et al	:	
Application No. 10/204,955	:	ON PETITION
Filed: August 27, 2002	:	
Attorney Docket No. 2202	:	

This is a decision on the petition, filed June 4, 2004 and supplemented on July 19, 2004, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to Allowance mailed January 6, 2004, which set a statutory period for reply of three (3) months. Petitioner has provided the USPTO Post Card Receipt, which indicates the reply (RCE and Amendment) was filed on February 5, 2004, which is in a timely fashion.

Since the reply was timely submitted, no petition fee is required. Therefore, the holding of abandonment will be withdrawn.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 3744 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

29 SEP 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

Michael L. Dunn
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221

In re Application of	:	
Rodney Moore et al.	:	
Application No.: 10/204,957	:	
PCT No.: PCT/EP01/02292	:	DECISION
International Filing Date: 01 March 2001	:	
Priority Date: 03 March 2000	:	
For: MACHINE FOR COATING HOLLOW	:	
BODIES	:	

This is a decision in response to applicants' Request For Corrected Official Filing Receipt filed 23 October 2003.

Specifically, applicants request that the name of the second inventor be corrected to read "Hugh Smith" as opposed to "Huge Smith" in order to correct an "obvious misspelling of his name".

In accordance with MPEP 605.04(b), a typographical or transliteration error in the spelling of an inventor's name discovered during prosecution may be corrected without petition.

Applicants' request is **GRANTED** and a corrected filing receipt is attached hereto.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (703) 308-0954
Facsimile: (703) 308-6459

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/204,957	08/27/2002	1763	890	WSP:209 US	9	20	1

CONFIRMATION NO. 1917
CORRECTED FILING RECEIPT
OC000000013933760
OC000000013933760

24041
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

Date Mailed: 09/29/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rodney Moore, Gardener, MA;
Hugh Smith, Brampton, CANADA;
Andreas Luettringhaus-Henkel, Darmstadt, GERMANY;

Power of Attorney:
Michael Dunn--25330

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/02292 03/01/2001

Foreign Applications

GERMANY 100 10 642.0 03/03/2000

If Required, Foreign Filing License Granted: 09/28/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/204,957

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MACHINE FOR COATING HOLLOW BODIES

Preliminary Class

118

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LICHTI LEMPERT & LASCH
BERGWALDSTR 1
KARLSRUHE, D-76227
GERMAN DEMOCRATIC REPUBLIC

COPY MAILED

OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Georg Weihrauch	:	
Application No. 10/204,968	:	ON PETITION
Filed: August 27, 2002	:	
Attorney Docket No. 19579.9	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 22, 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 February 22, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed June 16, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 23, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/232,273.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: LICHTI + PARTNER GBR
PATENTANWALTE
POSTFACH 41 07 60
D-76207 KARLSRUHE
GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

FISH & RICHARDSON
SUITE 500
500 ARGUELLO STREET
REDWOOD CITY CA 94063

COPY MAILED

MAY 1 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Paolo Tripodi	:	
Application No. 10/204,971	:	ON PETITION
Filed: August 27, 2002	:	
Attorney Docket No. 10454-020US1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 2, 2003, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/188,585, filed March 10, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application.

The instant pending nonprovisional application was filed on August 27, 2002. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5)(i) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the provisional application in the declaration, as shown by its inclusion on the filing receipt.

Additionally, the amendment filed April 2, 2003 is not acceptable because as worded, it appears that the instant application claims priority to provisional Application No. 60/188,585, filed March 10, 2000, rather than to PCT Application No. PCT/IB01/00915, filed March 12, 2001. Therefore, a substitute amendment to include the claim for priority to the PCT application is in order.

In view of the above, the $1,300 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

This application is being forwarded to Office of Initial Patent Examination Division for pre-examination processing. Afterwards, the application will be forwarded to Technology Center AU 1751 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) for the benefit of the prior-filed provisional application.

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

LIEBERMAN & BRANDSDORFER, LLC
802 STILL CREEK LANE
GAITHERSBURG MD 20878

COPY MAILED

OCT 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Braun et al.	:	
Application No. 10/204,985	:	ON PETITION
Filed: August 26, 2002	:	
Attorney Docket No. 1278-201	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/10/09

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/204985 Patent No.: 7458427B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Kevin P. Shaver
SPE

3754
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

22 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of	:	
KOHLER	:	
Application No.: 10/204,989	:	DECISION ON REQUEST
PCT No.: PCT/IB01/00230	:	
Int. Filing Date: 21 February 2001	:	UNDER
Priority Date: 25 February 2000	:	
Attorney Docket No.: APV31585	:	37 CFR 1.497(d)
For: METHOD AND APPARATUS FOR	:	
ON-SITE GENERATION OF A GAS	:	

This decision is in response to the "REQUEST TO CORRECT INVENTORSHIP" filed 27 November 2002.

BACKGROUND

On 21 February 2001, applicant filed international application PCT/IB01/00230, which designated the United States and claimed a priority date of 25 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 September 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 August 2002 (25 August 2002 being a Sunday).

On 26 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a declaration of the inventor.

On 04 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration of the inventor submitted 26 August 2002 was not in compliance with 37 CFR 1.497(a)-(b) because the declaration listed only one inventor while the international application listed two inventors. The NOTIFICATION set a TWO (2) MONTH extendable period for response.

On 27 November 2002, applicant filed the instant "REQUEST TO CORRECT

INVENTORSHIP," which was accompanied by, *inter alia*, a statement of Ullrich Klamm, and a statement of the assignee.

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in Sec. 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1), (2) and (3) (The recorded assignment document is at reel 013381, frame 0376.) with the submission of 09 January 2003. As to item (4), a new declaration is not required by 37 CFR 1.497(f) here.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, that is for processing the application in the name of John KOHLER as inventor and for according the application a 35 U.S.C. 371(c) date of **26 August 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

17 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Robert F.I. Conte
LEE, MANN, SMITH, MCWILLIAMS, SWEENEY & OHLSON
P.O. Box 2786
Chicago, IL 60690

In re Application of:	:	
STIPES, Jason, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/204,994	:	REVIVE ABANDONED
PCT No.: PCT/US01/01367	:	APPLICATION UNDER 37
International Filing Date: 16 January 2001	:	CFR 1.137(b)
Priority Date: 19 January 2000	:	
Attorney's Docket No.: 6500-1809.2	:	
For: A CABLE CHANNEL FILLER WITH	:	
IMBEDDED SHIELD AND CABLE	:	
CONTAINING THE SAME	:	

The petition to revive under 37 CFR 1.137(b) filed 26 August 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b)" meets the requirements of 37 CFR 1.137(b)(3). Applicants have now been charged for the basic national fee[1] and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements requiring submission of an executed declaration in compliance with 37 CFR 1.497 and the surcharge for late filing of the declaration..

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

---

[1] Applicants submitted $100 as the basic national fee, but included an authorization to charge Deposit Account No. 12-0913 for any additional fees required. The required basic national fee is $710. Accordingly, Deposit Account No. 12-0913 has been charged $610 to bring the total basic national fee payment to the required $710.

24 FEB 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jo Katherine D'Ambrosio
D'Ambrosio & Associates, P.L.L.C.
2925 Briar Park, Suite 930
Houston, TX 77042

In re Application of SIMMS	:	
U.S. Application No.: 10/204,998	:	
PCT Application No.: PCT/GB01/00822	:	
Int. Filing Date: 26 February 2001	:	DECISION
Priority Date Claimed: 25 February 2000	:	
Attorney Docket No.: WATT002	:	
For: APPARATUS AND METHOD FOR WATER	:	
TREATMENT BY ADSORPTION	:	

This is in response to applicant's "Petition to Revive Abandoned Application Under 37 CFR 1.137(a)" filed 13 January 2004.

BACKGROUND

On 26 February 2001, applicant filed international application PCT/GB01/00822, which claimed priority of an earlier United Kingdom application filed 25 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 September 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 25 August 2002.

On 23 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 October 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 January 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to the Notification of Missing Requirements.

On 13 January 2004, applicant filed the present petition under 37 CFR 1.137(a) along with an executed declaration.

DISCUSSION

The petition states that although applicant filed a change of correspondence address letter in October 2001, applicant did not receive the Notification of Missing Requirements mailed 18 October 2002.

MPEP 711.03(c), section III.C.2. states in relevant part,

> [W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
>
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
>
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
>
> (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

In the present case, the petition does not adequately demonstrate that a change of correspondence address notice was filed with the USPTO during the period specified. Specifically, the petition does not contain a copy of the purportedly filed notice and a copy of a properly itemized return postcard receipt. See MPEP 503. The affidavit of Tameka Watt, which may be used as supporting evidence, does not by itself remedy the lack of a postcard receipt.

Applicant is advised that although this decision is being mailed to the address listed on the declaration filed 13 January 2004, the change of correspondence address has not been recorded in the USPTO, since there is no record of a change of correspondence address notice having ever been filed for the present application (or for the present customer number).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Applicant may with to file a petition to withdraw the holding of abandonment based on failure to receive office action as an alternative to proceeding under 37 CFR 1.137(a). 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. Such docket record should list all responses due to the USPTO on 18 December 2002 for all cases handled by the representative's firm (or for all cases handled by the representative in the event the docket record for the entire firm is unavailable). See MPEP 711.03(c), section II.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

18 MAY 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

Jo Katherine D'Ambrosio
D'Ambrosio & Associates, P.L.L.C.
2925 Briar Park, Suite 930
Houston, TX 77042

In re Application of SIMMS	:	
U.S. Application No.: 10/204,998	:	
PCT Application No.: PCT/GB01/00822	:	
Int. Filing Date: 26 February 2001	:	DECISION
Priority Date Claimed: 25 February 2000	:	
Attorney Docket No.: WATT002	:	
For: APPARATUS AND METHOD FOR WATER	:	
TREATMENT BY ADSORPTION	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 March 2004.

BACKGROUND

On 26 February 2001, applicant filed international application PCT/GB01/00822, which claimed priority of an earlier United Kingdom application filed 25 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 September 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 25 August 2002.

On 23 August 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 October 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 January 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to the Notification of Missing Requirements.

On 13 January 2004, applicant filed a petition under 37 CFR 1.137(a) along with an executed declaration.

On 24 February 2004, this Office mailed a decision dismissing the 13 January 2004 petition.

On 16 March 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 February 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 January 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

COPY MAILED
JUL 13 2004
OFFICE OF PETITIONS

In re Application of	:
Bruce et al.	: DECISION GRANTING PETITION
Application No. 10/205,005	:
Filed: July 24, 2002	:
Attorney Docket No. NAGACO.063A	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed on August 23, 2002, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on October 24, 2002. A Notice of Abandonment was mailed on January 20, 2004.

The petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#5

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
10/205,009	07/25/2002	Nebojsa Janjic	NEX61CPCTUSD

CONFIRMATION NO. 9654

FORMALITIES LETTER

OC000000008725077

25871
SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

COPY

OIPE JC135 NOV 04 2002 PATENT & TRADEMARK OFFICE

Date Mailed: 09/04/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

11/08/2002 MBERHE 00000001 10205009
01 FC:1001 740.00 OP
02 FC:1051 130.00 OP

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).*
- 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 **$534** 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 **$1404** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$534**

- **$198** for **11** total claims over 20.
- **$336** for **4** 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

49A 11-06-02
Cw

03 00 $

OIPE JC135
NOV 04 2002
PATENT & TRADEMARK OFFICE

Express Mail No. EV078671176 US
Attorney Docket No. NEX61C/PCT-US/DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	JANJIC ET AL.	EXAMINER:	
SERIAL NO.:	10/205,009	ART UNIT:	1634
FILED:	JULY 25, 2002	CONF NO:	9654
FOR:	VASCULAR ENDOTHELIAL GROWTH FACTOR (VEGF) NUCLEIC ACID LIGAND COMPLEXES		

Assistant Commissioner for Patents
Washington, D.C. 20231
Attn: Box Missing Parts

Dear Sir:

REPLY TO NOTICE TO FILE MISSING PARTS

The applicant hereby replies to the "Notice to File Missing Parts of Non-provisional Application," mailed September 4, 2002. A copy of the Notice is enclosed. In reply to the Notice, the applicant submits:

(a)	the basic filing fee of	$740.00
(b)	assignment recordation fee of	$40.00
(c)	assignment and assignment recordation form cover sheet.	
(d)	late filing fee surcharge	$130.00
	Total:	$910.00

Enclosed is a check for $780.00 and a check for $130.00. The check covers the filing fee ($740.00), the and the fee for recording the assignment ($40.00), and a late filing fee surcharge ($130.00). The foregoing fees are calculated as a large entity.

The Notice indicates that a late oath or declaration surcharge is required; however, a copy of the declaration was filed with the application, and it is believed that a late filing fee surcharge is instead required.

The application was filed with 84 claims. Claims 1-53 were cancelled in a Preliminary Amendment filed with the application on July 25, 2002. Claims 71-84 were cancelled in a second Preliminary Amendment filed on October 7, 2002. Claims 54-70, or 17 claims are pending. The seventeen claims include one independent claim. Thus, it is believed that no additional claims fees are due.

The undersigned hereby authorizes the charge of any required fees not included or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Darla G. Yoerg, #48,053
Swanson & Bratschun, L.L.C.
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
Telephone: (303) 268-0066
Facsimile: (303) 268-0066

cc: D. Cruz, V. Appleby, J. Harre
S:\Client Folders\Gilead (formerly NeXstar)\NEX61\C\US\Div\Missing Parts Reply.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard V. Westerhoff
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant Street
Pittsburgh PA 15219

COPY MAILED

MAR 15 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephen B. Getsy et al. :
Application No. 10/205,020 :
Filed: July 25, 2002 :
Attorney Docket No. 035373-00107 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 Stephen Cronin at (571) 272-6051, or in his absence, the undersigned at (571) 272-3217.

The application file is being forwarded to Technology Center Art Unit 3727.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

MAIL

FEB 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOSEPH M. SAUER
JONES DAY REAVIS & POGUE
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND OH 44114

In re Application of:
Jason T. Griffin et al
Application No. 10/205,023
Filed: July 25, 2002
For: **HAND-HELD ELECTRONIC DEVICE WITH A KEYBOARD OPTIMIZED FOR USE WITH THE THUMBS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed January 13, 2003, under Manual of Patent Examination Procedure §708.02, II: Infringement.

A grantable petition under Manual of Patent Examination Procedure §708.02, II, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The 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

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

POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Steven K. Geer	: DECISION ON REQUEST FOR
Patent Number	: 6627117	: RECALCULATION of PATENT
Issue Date	: 09/30/2003	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/205,048	: OF WYETH
Filed	: 07/24/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

WOODCOCK WASHBURN LLP
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

MAR - 8 2004

In re Application of:
BELOPOLSKI *et al.*
Serial No.: 10/205,055
Filed: July 25, 2002
Attorney Docket No.: **FCI-2673**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 08, 2003. The petition has been treated under 37 C.F.R.§ 1.181, as a petition to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Office action mailed on January 24, 2003. A Notice of Abandonment was mailed on September 23, 2003.

Petitioner asserts that on April 22, 2003, a response including a reply to the Office action under 37 C.F.R. § 1.111, a Terminal Disclaimer and a copy of an Information Disclosure Statement previously filed on September 09, 2002. To support this assertion, petitioner has submitted a copy of the response, a copy of the "Express Mail" label showing a date-in of April 22, 2003, a copy of the date stamped return postcard receipt, and statements attesting that the copies are true copies of the papers filed April 22, 2003.

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 C.F.R. § 1.10 (e) sets forth procedures for filing a petition to the Commissioner to accept correspondence as being filed in the Office on the United States Postal Service (USPS) deposit date, provided that:

> *(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*

> *(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and*
>
> *(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.*

The petition meets the above stated requirements. Accordingly, 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 petition is accepted as being timely filed since the original was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing of the response. From there, the application will be forwarded to the examiner for further examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS MI 49588-8695

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Tyner, Jeff D.	:	DECISION
Application No. 10/205,059	:	ON PETITION
Filed: July 25, 2002	:	37 CFR 1.137(b)
Attorney Docket No. CND01 P-102	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 04, 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. 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).

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Stephen K. Cronin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being forwarded to the Office of Publications.

Francis Ickes for
Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ID

UNITED STATES 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

SONNENSCHEIN NATH & ROSENTHAL, LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

COPY MAILED

FEB 1 9 2004

OFFICE OF PETITIONS

In re Application of Haskin et al. Application No. 10/205,083 Filed: July 25, 2002 Attorney Docket No. 70012200.0017.0010	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 25, 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 May 27, 2004 was previously mailed on February 17, 2004 to the address of record.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center Art Unit 3682 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

cc: Brian McGinley
Sonnenschein Nath & Rosenthal, LLP
4520 Main Street
Suite 1100
Kansas City, MO 64111

UNITED STATES 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

COPY MAILED

JAN 23 2007

OFFICE OF PETITIONS

Reza Green, Esq.
Novo Nordisk of North America, Inc.
Suite 6400
405 Lexington Avenue
New York NY 10174-6400

In re Application of	:	
Ib Jonassen et al.	:	
Application No. 10/205,110	:	DECISION ON PETITION
Filed: July 24, 2005	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number:	:	
6289.200-US	:	
Title: METHOD FOR MAKING	:	
ACYLATED POLYPEPTIDES	:	

This is a decision on the petition filed October 3, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 2, 2004, which set a shortened statutory period to reply

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.

for one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. 1.136(a) were requested[2]. Accordingly, the above-identified application became abandoned on March 3, 2005. A Notice of abandonment was mailed on August 23, 2005.

The present petition pursuant to 37 C.F.R. §1.137(b) was received on October 3, 2006, along with the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement, which was submitted concurrently with the present petition, can be processed.

It is noted that the address listed on the petition differs from the address of record. If Petitioner's representative 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's representative. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner's representative will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For the convenience of Petitioner's representative, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Petitioner 's representative has indicated that an attempt was made to change the correspondence address on September 11, 2002, when a "new address in association with their customer number, 23650" was filed, and "this application" was "associated therewith in a spreadsheet of associated applications[3]." Petitioner's representative has included a copy of the "notice of

---

2 It is noted that both Office communications were returned by the USPS as not deliverable.

3 "Additional statement that the entire delay was unintentional," page 2.

customer number record change" (mailed by the Office on September 12, 2002) which evinces that the address that is associated with this customer number was updated.

The September 11, 2002 attempt of Petitioner's representative to change the correspondence address was ineffective in regards to the present application due to the prevenient disassociation of the present application from the customer number.

It is noted that the application was initially associated to customer number 23650. A notice to file missing parts was mailed on August 23, 2002. In response to this notice, a declaration was filed on October 21, 2002. The declaration instructed the Office to "send all correspondence" not to the address associated with a particular customer number, but rather to "Reza Green, Esq., Novo Nordisk of North America, Inc., 405 Lexington Avenue, Suite 6400, New York, New York, 10174-6400." As such, Petitioner's representative disassociated the present application from the customer number, and the address of the present application was set to the physical address for Reza Green

A data change to customer number 23650 occurred on September 3, 2002, in which the address that is associated with this customer number was changed from the address above to "Novo Nordisk, Inc., Patent Department, 100 College Road West, Princeton, NJ, 08540."

The "notice of customer number record change" evinces that the address associated with customer number 23650 was updated, however since the present application was no longer associated with this customer number (due to the disassociation by Petitioner's representative) the data change had no affect on the correspondence address for the present application.

Consequently, the Restriction Requirement was properly mailed to the address of record.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries

---

4 Petitioner's representative 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's representative is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner's representative.

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: Ricahrd W. Bork
Novo Nordisk, Inc.
Patent Department
100 College Road West
Princeton, NJ, 08540

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

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

Mail Date: 04/20/2010

Applicant	: Ib Jonassen	: DECISION ON REQUEST FOR
Patent Number	: 7595172	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/205,110	: 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 **1511** 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

George L. Yang
4628 Kings Mill Way
Owings Mills MD 21117

COPY MAILED
NOV 16 2006
OFFICE OF PETITIONS

In re Application of :
Yang :
Application No. 10/205,116 :
Filed: July 25, 2002 : ON PETITION
Attorney Docket No. N/A :
For: APPLICATION OF MULTIPATH COMBINER AND EQUALIZER IN A MULTI-CHANEL DIRECT SEQUENCE SPREAD COMMUNICATION SYSTEM

This is a decision on the petition under 37 CFR 1.137(a), filed November 1, 2006 (certificate of mailing date October 28, 2006) 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the October 31, 2005 Restriction Requirement, which set an extendable one month period for reply. No reply being received, the Office considered this application abandoned on December 1, 2005. A Notice of Abandonment was mailed on September 21, 2006.

Petitioner asserts that the October 31, 2005 Restriction Requirement was not received.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Director that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications 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.

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).

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).

A review of the record indicates an irregularity in the mailing of the October 31, 2005 Restriction Requirement. The correspondence was returned to sender on November 3, 2005 because "Forward Time" had expired.

A review of the application file history reveals that as of October 31, 2005, the Office was directed to mail correspondence to:

9105 SARACEN DRIVE
BALTIMORE, MD 21208

The above address is precisely where the October 31, 2005 Restriction Requirement was mailed. Petitioner appears to be arguing that a subsequently filed change in correspondence address request was mailed to the Office *prior* to the mailing of the October 31, 2005 Restriction Requirement, but that change in correspondence address was not received in the Office. This resulted in the October 31, 2005 Restriction Requirement being mailed to an out of date address. Unfortunately, petitioner has not provided evidence that a change of correspondence address request listing applicant's current address was filed prior to the mailing of the October 31, 2005 Restriction Requirement.

An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing. A delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn v. Commissioner, 15 USPQ2d 1823, 1825, (E.D. Va 1990); see also MPEP 711.03(c)(III)(C)(2)

The application became abandoned because applicant did not inform the Office of the correct correspondence address; therefore, the petition under 37 CFR 1.137(a) is dismissed.

Petitioner is strongly encouraged to file a petition to revive under the unintentional standard of 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 cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The current Rule 137(b) petition fee is $750.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

George L. Yang
4628 Kings Mill Way
Owings Mills MD 21117

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Yang :
Application No. 10/205,116 :
Filed: July 25, 2002 : ON PETITION
Attorney Docket No. N/A :
For: APPLICATION OF MULTIPATH COMBINER AND EQUALIZER IN A MULTI-CHANEL DIRECT SEQUENCE SPREAD COMMUNICATION SYSTEM

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed December 22, 2006, 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the October 31, 2005 Restriction Requirement, which set an extendable one month period for reply. No reply being received, the Office considered this application abandoned on December 1, 2005. A Notice of Abandonment was mailed on September 21, 2006.

Petitioner asserts that the October 31, 2005 Restriction Requirement was not received because petitioner's purported attempts to change his mailing address were unsuccessful.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the

satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Director that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications 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.

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).

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).

A review of the record indicates an irregularity in the mailing of the October 31, 2005 Restriction Requirement. The correspondence was returned to sender on November 3, 2005 because "Forward Time" had expired.

Petitioner argues that he attempted to change his correspondence address via facsimile and via first class mail prior to the mailing of the October 31, 2005 Restriction Requirement. However, petitioner has not provided acceptable evidence supporting these assertions.

If the Office has no record of receiving correspondence, there are only two ways to get the Office to recognize a date of deposit in first class mail or facsimile transmission as the filing date for the correspondence that was not received in the Office. As an aside, (1) below does not work with original applications. In general:

(1) Petitioner must provide a copy of the original document with an affixed certificate of mailing or transmission listing the desired date as the date of deposit or transmission (See 37 CFR 1.8).
OR
(2) Petitioner must provide a copy of an Express Mail label showing a "date-in" of the desired date and a copy of the document that contains a reference to the Express Mail receipt number (37 CFR 1.10).

Petitioner has not provided a copy of any of the requests for change of address that were purportedly filed prior to October 31, 2005. Petitioner has not shown that the documents contained a proper certificate of mailing or transmission. Petitioner has not stated that he utilized USPS Express Mail Service to file correspondence.

A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing. A delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn v. Commissioner, 15 USPQ2d 1823, 1825, (E.D. Va 1990); see also MPEP 711.03(c)(III)(C)(2)

Petitioner has not provided acceptable, persuasive evidence that a change of address (listing petitioner's correct address) with a proper Rule 1.8 certification was filed prior to October 31, 2005. Therefore, the office mailed the October 31, 2005 Restriction Requirement to the last address on record, which was not up-to-date. An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

The petition under 37 CFR 1.137(a) is dismissed.

Petitioner is strongly encouraged to file a petition to revive under the unintentional standard of 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 cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The current Rule 137(b) petition fee is $750.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
APR 13 2007
OFFICE OF PETITIONS

George L. Yang
4628 Kings Mill Way
Owings Mills MD 21117

In re Application of :
Yang :
Application No. 10/205,116 :
Filed: July 25, 2002 : ON PETITION
Attorney Docket No. N/A :
For: APPLICATION OF MULTIPATH COMBINER AND EQUALIZER IN A MULTI-CHANEL DIRECT SEQUENCE SPREAD COMMUNICATION SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2007, to revive the above-identified application.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the October 31, 2005 Restriction Requirement, which set an extendable one month period for reply. No timely reply being received, the Office considered this application abandoned on December 1, 2005. A Notice of Abandonment was mailed on September 21, 2006.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee.

Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

After the mailing of this decision, the file will be returned to Technology Center AU 2611 for consideration of the election filed on May 1, 2006.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

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

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
ROSNER	:	
Application No.: 10/205,120	:	DECISION ON PETITION
Filing Date: July 25, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 450.003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 29, 2004.

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 (3) above. Petitioner merely states that the application "was unintentionally abandoned." Petitioner does not state 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. It is noted that the application was abandoned for more than 29 months.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed to:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
ROSNER	:	
Application No.: 10/205,120	:	DECISION ON PETITION
Filing Date: July 25, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 450.003	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 29, 2004.

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.

A decision mailed March 20, 2007 dismissed applicants' petition to revive under 37 CFR 1.137(b) filed December 18, 2006 because item (3) had not been satisfied. The renewed petition includes the required statement. However, item (3) still has not been satisfied. Upon further review of the application file, an Interview Summary dated 15 December 2004 was reviewed. In this Interview Summary, petitioner confirmed to the examiner that the application was abandoned. The confirmation does not necessarily establish that the abandonment was unintentional but it does raise a question about the two year delay in filing the petition to revive from the time petitioner was made aware of the abandonment. An explanation of the telephone confirmation and the delay is required. ("The Director may require additional information where there is a question whether the delay was unintentional". 37 CFR 1.137(b)(3).)

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed to:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
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
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Scott J. Broussard	: DECISION ON REQUEST FOR
Patent Number	: 7580863	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/205,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1902** 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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Hawkes et al.	:	
Application No. 10/205,133	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 020274	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David W. Barman
1101 NE 176 Terrace
North Miami Beach, FL 33162

MAILED

APR 19 2004

Director's Office
Group 3700

Paper No.

In re Application of
Stanley Segal
Serial No. : 10/205,156
Filed : July 25, 2002
For : Method and Apparatus for Main Water Shut Off

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT

This is a decision on petitioner's request filed March 1, 2004 to review the holding of abandonment mailed December 15, 2003, for failure to respond to the Office action mailed June 3, 2003. The basis for the request is that applicant did not receive the communication mailed June 3, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed March 1, 2004 includes all the above elements. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of June 3, 2003.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Groups 3740 and 3750
Phone: (703) 308-0975

ak/04/14/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

JAN 12 2004

Office of the Director
Group 3600

Paper No. 5

JINAN GLASGOW
P O BOX 28539
RALEIGH, NC 27611-8539

In re Application of
Lawrence W. Altrich, et al.
Application No. 10/205,162
Filed: July 25, 2002
For: FISH STRIKE INDICATOR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 25, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☒ Certificate of Mailing/Transmission signed on June 30, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/12/29/03

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Frommer Lawrence & Haug
745 Fifth Avenue – 10th Floor
New York, NY 10151

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Jack R. Barber, et al.	:
Application No. 10/205,179	: DECISION ON PETITION
Filed: July 24, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1134.010/20263.441	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 Marianne Jenkins at (571) 272-3223. 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 1633 for appropriate action on the amendment filed December 8, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of Herz, et al. Application No. 10/205,182 Filed: July 24, 2002 Attorney Docket No. REFH-0158	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed January 3, 2003, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 4, 2003. A Notice of Abandonment was mailed on February 9, 2004.

Applicants have submitted a proper reply in the form of an executed declaration and late declaration surcharge, an acceptable statement of the unintentional nature of the delay in responding to the January 3, 2003 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted. [1]

---

[1] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: G.P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

COPY MAILED

JAN 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Andersen :
Application No. 10/205,189 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. 38-21(51497)C :

This is a decision on the petition under 37 CFR 1.183, filed July 30, 2002 (certificate of mailing July 24, 2002), requesting waiver of the requirement for a paper copy of the Sequence Listing under 37 CFR 1.821(c).

On July 24, 2002, applicant filed, *inter alia,* the above-identified application, the present petition and a $130.00 petition fee. Applicant requested the suspension of the requirement for a paper copy of the Sequence Listing under 37 CFR 1.821(c). Applicant further requested that the computer-readable form of the Sequence Listing filed in the application be considered as the official Sequence Listing.

Effective September 8, 2000, 37 CFR 1.821(c) states, in pertinent part:

> Patent applications which contain disclosures of nucleotide and/or amino acid sequences must contain, as a separate part of the disclosure, a paper **or** compact disc copy (see § 1.52(e)) disclosing the nucleotide and/or amino acid sequences and associated information using the symbols and format in accordance with the requirements of §§ 1.822 and 1.823. (Emphasis added).

Because the revised rules 37 CFR 1.52(e) and 1.821-1.825 allow the filing a Sequence Listing on compact disc without a paper copy, the petition is **dismissed as moot**.

Accordingly, the petition fee of $130.00 will be credited to Deposit Account No. 13-4125.

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)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

MAILED

APR 28 2010

OFFICE OF PETITIONS

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606

In re Patent No. 7,612,194	:	DECISION ON REQUEST FOR
Andersen et al.	:	RECONSIDERATION OF
Issue Date: November 3, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/205,189	:	NOTICE OF INTENT TO ISSUE
Filed: July 24, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. MONS:192US:		

This is a decision on the petition filed on January 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-three (863) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **six hundred seventy-seven (677) days**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on July 25, 2005, and ends on January 27, 2008, the day before the RCE was filed, and is 917 (not 918) days. See 35 U.S.C. 154(b)(1)(B)(i). Further, the Office notes that patentee failed to account for the filing of the notice of appeal on July 27, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

Best Available Copy

In this instance, the period consumed by appellate review is 185 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, July 27, 2007, and ending on the day before the filing of the RCE, January 27, 2008. Thus, the B delay is 732 days (917 - 185).

Accordingly, the patent term adjustment is 677 days (390 days of A delay + 732 days of B delay - 445 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred seventy-seven (677) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,612,194 B2

DATED: Nov. 3, 2009 **DRAFT**

INVENTOR(S): Andersen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 473 days

Delete the phrase "by 473 days" and insert – by 677 days--

Best Available Copy

Day : Wednesday

PALM INTRANET

Date: 4/28/2010
Time: 07:40:03

PTA Calculations for Application: 10/205189

Application Filing Date:	07/24/2002	PTO Delay (PTO):	918
Issue Date of Patent:	11/03/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	445
Post-Issue Petitions:	0	Total PTA (days):	677
PTO Delay Adjustment:	204		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	04/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	204		
92.5	10/14/2009	PTA 36 MONTHS	528		
92	11/03/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
91	10/08/2009	EXPORT TO FINAL DATA CAPTURE			
90	10/06/2009	FINISHED INITIAL DATA CAPTURE			
89	10/06/2009	DISPATCH TO FDC			
88	09/17/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
87	09/11/2009	ISSUE FEE PAYMENT VERIFIED			
86	09/14/2009	RECEIPT INTO PUBS			
85	09/11/2009	ISSUE FEE PAYMENT RECEIVED			
84	07/07/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
83	06/16/2009	EXPORT TO INITIAL DATA CAPTURE			
81	06/11/2009	MAIL NOTICE OF ALLOWANCE			
80	06/08/2009	ISSUE REVISION COMPLETED			
79	06/08/2009	DOCUMENT VERIFICATION			
78	06/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
77	06/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
76	06/08/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	06/08/2009	NOTICE OF ALLOWABILITY			
74	06/01/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
71	04/01/2009	DATE FORWARDED TO EXAMINER			
70	02/25/2009	RESPONSE AFTER NON-FINAL ACTION		11	68
69	02/25/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			

Best Available Copy

68	11/14/2008	MAIL NON-FINAL REJECTION			
67	11/14/2008	NON-FINAL REJECTION			
66	07/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	09/16/2008	DATE FORWARDED TO EXAMINER			
64	08/11/2008	RESPONSE AFTER NON-FINAL ACTION		31	61
63	08/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	07/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	04/11/2008	MAIL NON-FINAL REJECTION			
60	04/09/2008	NON-FINAL REJECTION			
59	02/13/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	02/07/2008	DATE FORWARDED TO EXAMINER			
57	01/28/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
56	02/07/2008	DATE FORWARDED TO EXAMINER			
55	01/28/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
54	02/07/2008	DISPOSAL FOR A RCE / CPA / R129			
53	01/28/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	02/07/2008	CORRESPONDENCE ADDRESS CHANGE			
51	01/28/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	07/27/2007	NOTICE OF APPEAL FILED		89	47
49	07/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	03/01/2007	PG-PUB ISSUE NOTIFICATION			
47	01/29/2007	MAIL FINAL REJECTION (PTOL - 326)			
46	01/25/2007	FINAL REJECTION			
45	11/22/2006	DATE FORWARDED TO EXAMINER			
44	11/08/2006	RESPONSE AFTER NON-FINAL ACTION		98	41
43	10/24/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
42	08/11/2006	DATE FORWARDED TO EXAMINER			
41.1	08/02/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
41	08/02/2006	RESPONSE AFTER NON-FINAL ACTION		92	39

Best Available Copy

40	08/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	02/02/2006	MAIL NON-FINAL REJECTION			
38	02/01/2006	NON-FINAL REJECTION			
37	12/23/2005	~~RECEIPT OF ALL ACKNOWLEDGEMENT~~ LETTERS			
36	12/02/2005	DATE FORWARDED TO EXAMINER			
35	11/21/2005	RESPONSE AFTER NON-FINAL ACTION		93	33
34	11/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	05/20/2005	MAIL NON-FINAL REJECTION			
32	05/16/2005	NON-FINAL REJECTION			
31	04/13/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
30	03/03/2005	DATE FORWARDED TO EXAMINER			
29	02/18/2005	RESPONSE TO ELECTION / RESTRICTION FILED		31	27
28	02/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	10/18/2004	MAIL RESTRICTION REQUIREMENT	390		-1
26	10/14/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
25	10/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	09/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
23	05/23/2003	APPLICATION DISPATCHED FROM OIPE			
22	05/22/2003	APPLICATION IS NOW COMPLETE			
20	04/24/2003	ADDITIONAL APPLICATION FILING FEES			
19	04/24/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
18	04/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
17	05/08/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
16	03/31/2003	RECEIPT OF ACKNOWLEDGMENT LETTER			
15	03/18/2003	LETTER TO APPLICANT - NO GOVERNMENT INTEREST / PATENT TO ISSUE			
14	02/27/2003	NOTICE MAILED--APPLICATION.INCOMPLETE--FILING DATE ASSIGNED			
10	07/24/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
9	01/31/2003	MAIL-PETITION DECISION - DISMISSED			

Best Available Copy

8	07/30/2002	PETITION ENTERED			
7	09/17/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	09/17/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	09/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	09/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	08/22/2002	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	07/24/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/24/2002	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

UNITED STATES 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

MAY 17 2006

TECHNOLOGY CENTER 2100

William Fuess
10951 Sorrento Valley Road
Suite II-G
San Diego, CA 92121-1613

In re Application of: William Christopher ALTARE Application No. 10/205,190 Attorney Docket No. ALT 0001P Filed: January 28, 2003 For: PERFORMANCE-PREDICTED AUTOMATIC DEFRAGMENTATION OF HARD DISKS, PARTICULARLY FOR NON-PC MOBILE DIGITAL DEVICES INCLUDING MUSIC RECORDER/PLAYERS	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, original filed April 4, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is being considered under 37 CFR §1.181. This application was held abandoned for failure to timely respond to the Office action (Ex parte Quayle) mailed on June 22, 2004. A Notice of Abandonment was mailed on January 27, 2005 for failure to respond to the Office action.

In support of the petition, applicants' representative provides a statement that the Office action mailed June 22, 2004 was not received.

According to the **MPEP §711.03(c),** the showing required to establish nonreceipt of an Office action includes the following:

> *1) a statement from practitioner that the Office action was not received;*
> ***2) a statement from practitioner that the file jacket and docket records were searched;***
> ***3) a copy of the docket record at the address of record;*** *and*
> ***4) a reference to the docket record in the practitioner's statement.***
> **[Emphasis added.]**

The petition fails to fully comply with requirements 2-4 set forth above. The evidence submitted has not overcome the presumption of receipt.

The 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. The docket record identified above is also required to be a docket record showing all actions due by the entire firm at and around the due date for response, not counting any possible extensions of time. The attorney must also have been at the address of record at the time the action was mailed or have filed a timely Change of Correspondence address.

The petition is **DISMISSED**.

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision.

It is noted that the Applicant has also filed a "Conditional Petition for Revival" of the application. If Applicant cannot provide the required evidence discussed in the decision above, Applicant may wish to file a complete petition to revive under 37 CFR §1.137(a) (unavoidable delay) or 37 CFR §1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR §1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee 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 showing of requirements can be met by submission of a statement of facts establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR §1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 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 Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

The required items, including appropriate fee, should be promptly submitted under a cover letter entitled "Petition to Revive under 37 CFR §1.137(a) or (b)", as deemed appropriate.

Telephone inquiries should be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

COPY MAILED
APR 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Toshikazu Onishi	:	
Application No. 10/205,227	:	ON PETITION
Filed: July 26, 2002	:	
Attorney Docket No.: 740819-0848	:	

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2822 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
APR 11 2006
OFFICE OF PETITIONS

Date : April 11, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Toshikazu Onishi
Application No. : 10/205,227
Filed : July 26, 2002

The above-identified application has been assigned Patent No. 7,034,338 and an issue date of April 25, 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 April 25, 2006:

> "All reference to Patent No. 7,034,338 to TOSHIKAZU ONISHI of JAPAN for SEMICONDUCTOR LASER DEVICE appearing in the Official Gazette of April 25, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

COPY MAILED
JAN 19 2010

In re Application of
Chris Goringe et al
Application No. 10/205,244
Filed: July 25, 2002
Attorney Docket No. 13217.190

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 16, 2009.

The request is **APPROVED**.

A review of the file record indicates that James M. Graziano: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, James M. Graziano has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James M. Graziano
Patton Boggs LLP
1801 California Street, Suite 4900
Denver, CO 80202-2613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENKINS & WILSON, PA
3100 TOWER BLVD
SUITE 1400
DURHAM, NC 27707

COPY MAILED

FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Larry T. Mitchell Jr. et al :
Application No. 10/205,274 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 1166/5 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 2, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3765.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

092904

MARSHALL, GERSTEIN & BORUN, LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

OCT 1 2004

In re Application of:
Kjetil Johannessen
Serial No.: 10/205,275
Filed: July 25, 2002
For: APPARATUS FOR THERMAL COMPENSATION OF AN ARRAYED WAVEGUIDE GRATING

DECISION ON PETITION

This is a decision on the petition filed May 24, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of October 22, 2003. A Notice of Abandonment was mailed on May 4, 2004.

Petitioner states that the holding of abandonment is improper because the non-final Office action mailed October 22, 2003, is clearly defective because it is not related to the instant application and a telephone message to examiner after receipt of the non-final Office action followed by a Status Letter filed December 5, 2003, did not result in the Office action being withdrawn but a Notice of Abandonment was issued instead. Specifically, although the Office action includes a summary sheet, form PTOL-326, and a prior art citation, form PTO-892, listing the instant application serial number, the detailed action does not reference or pertain to the present application but rather lists a different application serial number "10/285,275."

A review of the application record reveals that the non-final Office action mailed on October 22, 2003, is clearly defective because it does not address the arrayed wave guide grating set forth in pending claims 1 through 32 but rather addresses claims 1through 22 and the decorative flower they recite. A status letter was submitted December 8, 2003, along with a copy of the Office action. The status letter clearly points out that the Office action was related to a different application and requests an expected date of a first Office action in the above-identified application.

It is apparent from the record that the Office action mailed October 22, 2003, was issued in error because it is intended for an entirely different set of claims of an entirely different application. Upon noticing the error, petitioner has timely taken steps to bring it to the attention of the Office. No further action is required from petitioner. It is regretted that a Notice of Abandonment has been issued that necessitated the filing of a petition.

In view of the above-stated reasons, the holding of abandonment is hereby withdrawn and the Notice of Abandonment and the Office action of October 22, 2003 are vacated.

The examiner will review the application and promptly issue an Office action addressing claims 1 through 32.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED
OCT 1 8 2006
OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/205,305
Filed: July 24, 2002
Attorney Docket No. 01-020

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed October 18, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on January 19, 2006.

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.**

This matter is being referred to Technology Center Art Unit 3714.

Telephone inquiries specific to 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

Anderson & Morishita, LLC
2725 S. Jones Blvd., Suite 102
Las Vegas, NV 89146

COPY MAILED

NOV 1 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James C. Conklin et al. :
Application No. 10/205,321 :
Filed: July 24, 2002 :
Attorney Docket No. CONKLIN02-04 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application (Notice) mailed September 11, 2002, which set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on November 12, 2002.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 21 2004

In re Application of	:	
James C. Conklin et al.	:	
Serial No. 10/205,321	:	DECISION ON PETITION
Filed: July 24, 2002	:	TO WITHDRAW AS ATTORNEY
For: LATIN DRAW POKER	:	

By papers filed on April 28, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Mr. James Conklin
1608 Azure Springs Avenue
Henderson, NV 89014

E. Rollins-Cross, Director
Technology Center 3700

Anderson and Morishita, LLC (Withdrawing Attorney)
2725 S. Jones Blvd., Suite 102
Las Vegas, NV 89146

UNITED STATES 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

FEB 05 2007

OFFICE OF PETITIONS

MR. JAMES CONKLIN
1608 AZURE SPRINGS AVENUE
HENDERSON NV 89014

In re Application of	:
Conklin, et al.	: DECISION ON PETITION
Application No. 10/205,321	:
Filed: July 24, 2002	:
For: LATIN DRAW POKER	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed January 25, 2006. The final Office action set a three (3) month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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.

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.

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. Therefore, no extension of time fee is due in connection with this petition. The extension of time fee submitted herewith is thus unnecessary. Petitioner may request a refund of the $1,020.00 extension of time fee submitted herewith by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application file is being forwarded to Technology Center 3700 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

CC: R. WEIDE
Weide & Miller, Ltd.
Bank West Building, 5th Floor
7251 West Lake Mead Blvd., Suite 530
Las Vegas, NV 89128

UNITED STATES 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

FEB 05 2007

OFFICE OF PETITIONS

MR. JAMES CONKLIN
1608 AZURE SPRINGS AVENUE
HENDERSON NV 89014

In re Application of	:
Conklin, et al.	: DECISION ON PETITION
Application No. 10/205,321	:
Filed: July 24, 2002	:
For: LATIN DRAW POKER	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed January 25, 2006. The final Office action set a three (3) month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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.

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.

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. Therefore, no extension of time fee is due in connection with this petition. The extension of time fee submitted herewith is thus unnecessary. Petitioner may request a refund of the $1,020.00 extension of time fee submitted herewith by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application file is being forwarded to Technology Center 3700 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

CC: R. WEIDE
Weide & Miller, Ltd.
Bank West Building, 5th Floor
7251 West Lake Mead Blvd., Suite 530
Las Vegas, NV 89128

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED
JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of :
W. Daniel Hillis et al :
Application No. 10/205,328 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. APPL0025

This is a decision on the petition filed June 5, 2006 which is being treated as a petition under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed as moot** for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on March 21, 2006, with the issue fee being due on or before June 21, 2006.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of March 21, 2006 has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3210.

This matter is being referred to Technology Center Art Unit 2626.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

HUSCH BLACKWELL SANDERS LLP
4801 Main Street
Suite 1000
KANSAS CITY MO 64112

COPY MAILED
JAN 14 2010

In re Application of	:	
MCDONALD, COREY E.	:	
Application No. 10/205,336	:	ON PETITION
Filed: 07/24/2002	:	
Attorney Docket No. 502552.10000	:	

This is a decision on the petition filed August 28, 2009, under 37 CFR 1.137(a) or, in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to reply timely to the non-final Office action mailed February 23, 2004, which set a three (3) month shortened statutory period to reply. No extensions of this time period were obtained pursuant to 37 CFR 1.136. Accordingly, this application became abandoned on May 24, 2004. A Notice of Abandonment was mailed on August 31, 2004.

Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d).

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable". 35 U.S.C. § 133.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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In the present petition, applicant asserts that the entire delay in filing a timely response to the outstanding Office action was unavoidable. Specifically, applicant states that on January 15, 2004, he and his ex-wife permanently separated and that he permanently moved from his original address, where his previous patent attorneys sent him correspondence. Applicant indicates that upon his move, he submitted a change of address with the USPS and requested that mail addressed to him at his original address be forwarded to his new address. Applicant states that after submitting this request, the USPS continued to deliver mail to his original address where his ex-wife was still residing. Applicant asserts that his ex-wife withheld his mail and other documents that were delivered to the original address. Applicant further maintains that his ex-wife destroyed his possession, including correspondence he had received from his former patent attorneys while he was still residing at the original address. Applicant asserts that he did not receive notice from his former patent attorneys either by mail, phone, fax or E-mail that the USPTO issued the non-final Office action of February 23, 2004. Applicant indicates that it is his belief that his ex-wife kept and/or destroyed any correspondence from his former patent attorneys.

The general standard applied by the Office requires petitioners to establish that they exercised the care and diligence in prosecuting the present application that is generally used and observed by prudent and careful men in relation to their most important business. In re Mattullah, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). A showing of diligence in matters before the USPTO is essential to support a finding of unavoidable delay. See Futures Technology, Ltd. v. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988). Moreover, petitioner is reminded that the failure of communication between an applicant and counsel is not unavoidable delay within the meaning of 37 CFR 1.137(a). In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

There is nothing in the record to indicate that petitioner contacted his former patent attorneys and informed them of his change of address in an effort to ensure that all correspondence would be mailed directly to and received by applicant. There is no showing that petitioner took any action to try to obtained copies of the allegedly destroyed correspondence he had received from his former patent attorneys while he was still residing at the original address. Moreover, it is unclear why petitioner did not take his patent documents and records to his new residence in light of the fact that this was a permanent move and separation from his wife. A reasonable and prudent person would have informed his attorney of his permanent change of address, as well as ascertain information regarding the status of the application either through their attorney or by contacting the USPTO.

The record reveals that applicant did not take any action in this application until the filing of the present petition, over five years after the date of abandonment. There is no documentary showing such as statements from his former patent attorneys establishing that applicant made an effort to communicate with them to ensure that a timely response was filed to avoid abandonment of this application. Applicant's inaction does not demonstrate the care and diligence generally observed by prudent and careful men in relation to his most important business. An applicant has a duty to ensure that his application is being prosecuted. Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1687, 1700 (E.D. Pa. 1991), aff'd, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992); citing Winkler v. Ladd, 221 F. Supp. 550, 552 (D.D.C. 1962). Diligent inquiry into the status of the application is required. There is nothing in the petition to indicate that petitioner attempted to do such. If petitioner would have exercised due care of a reasonably prudent person and inquired into status of the application, petitioner could have avoided or been able to act to correct the situation in a more timely fashion.

In summary, the record fails to adequately evidence that petitioner exercised the due care and diligence observed by prudent and careful persons, in relation to his most important business, which is necessary to establish unavoidable delay. Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Therefore, the petition under 37 CFR 1.137(a) is **dismissed**.

Petition Under 37 CFR 1.137(b)

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(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 was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d).

It is noted that the above-identified application has been abandoned for an extended period of time. The USPTO is rely on petitioner's duty of candor and good faith and is accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

This matter is being referred to Technology Center Art Unit 3753 for consideration of the reply filed August 28, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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. 111803

SKJERVEN MORRILL LLP
25 Metro Drive, Suite 700
San Jose CA 95110

NOV 24 2003

In re Application of:	:	
Russell W. Guenthner	:	
Serial No.: 10/205,345	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: July 24, 2002	:	
Attorney Docket No.: **M-8309-IC US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 13, 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, 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 James E. Parsons on behalf of himself and all the attorneys of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will continue to be directed to Alan MacPherson at the below address 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: Alan MacPherson
MacPherson Kwok Chen Heid LLP
2001 Gateway Pl., Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTOPHER L. MCKEE
BANNER & WITCOFF LTD.
1001 G STREET, N.W. 11TH FLOOR
WASHINGTON, DC 20001-4597

COPY MAILED
SEP 1 2 2006
OFFICE OF PETITIONS

In re Application of :
Russell W. Guenthner :
Application No. 10/205,345 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No.: M-8309-IC US :

This is a decision on the petition filed August 4, 2006 to withdraw the petition filed April 7, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition to withdraw the previous filed petitions is treated under 37 CFR 1.181 and is **GRANTED**.
The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 1, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 4, 2004. Accordingly, a Notice of Abandonment was mailed January 10, 2005.

Petitioners filed a petition to revive and loss of entitlement to small entity status, but prior to consideration of petition, petitioners learned that they were not in fact empowered to prosecute the instant application. In view thereof, the petition to revive and loss of entitlement to small entity status filed April 7, 2006 will not receive consideration and the application will remain in an abandoned status. The petition fee in the amount of

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

$1500.00 will be credited back to deposit account no. 19-0733.

A copy of this decision is being mailed to the Attorneys of Record.

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

cc:

ALAN MACPHERSON
MACPHERSON KWOK CHEN HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

UNITED STATES 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-05

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Costanzo et al.	:	
Application No. 10/205,355	:	DECISION ON PETITION
Filed: 25 July, 2002	:	
Atty Docket No. ORT1649	:	

This is a decision on the petition filed on 3 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 June, 2005, for failure to timely reply to the non-final Office action mailed on 25 March,

---

[1] Effective December 1, 1997, the provisions of 3 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). Agrantable 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)).

2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment on 5 October, 2005.

Petitioners have filed an amendment and terminal disclaimer as the required reply.

This application is being referred to Technology Center Art Unit 1621 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

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.
10/205,371	07/25/2002	Sridatta Viswanath	5681-28200	8096

58467 7590 06/03/2009
MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER
HOSSAIN, TANIM M

ART UNIT	PAPER NUMBER
2445	

NOTIFICATION DATE	DELIVERY MODE
06/03/2009	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):

patent_docketing@intprop.com
ptomhkkg@gmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED

JUN 02 2009

TECHNOLOGY CENTER 2100

Robert C Kowert
Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of: VISWANATH, Sridatta)
Application No. **10/205,371**)
Attorney Docket No. 5681-28200/P8159)
Filed: July 25, 2002)
Title: PLUGGABLE SEMANTIC)
VERIFICATION AND VALIDATION OF)
CONFIGURATION DATA)

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed January 21, 2009 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

July 25, 2002	The application identified above was filed with claims 1-69.
November 18, 2005	A non-final Office action was mailed rejecting claims 1-69 under 103(a) as being unpatentable by Bahrs in view of Brittenham.
February 27, 2006	An amendment was filed amending claims 12 and 53-60 but claims 1-69 remain pending.
May 15, 2006	A second non-final action was mailed rejection claims 1-69 under 103(a) as unpatentable by Mutchler in view of Vedula.
August 18, 2006	A reply was with no claim amendments only arguing the art rejection.
November 18, 2006	A final office action was mailed keeping the rejection claims 1-69 under 103(a) as unpatentable by Mutchler in view of Vedula with a response to arguments
January 18, 2007	An after final amendment without claim amendments was filed arguing the prior art rejection.

February 13, 2007	An advisory action was mailed arguing the after final remarks.
February 15, 2007	A notice of appeal was filed with a pre-brief appeal conference.
April 19, 2007	A pre-brief appeal decision was mailed indicating that prosecution will be reopened.
July 3, 2007	A restriction was made drawing the thrice rejected claims to three different inventions. Group 1: claims 1-17, classified in 709/220. Group 2: claims 18-35, classified in 711/100. Group 3: claims 36-69, classified in 707/102.
August 3, 2007	A reply was received traversing the restriction requirement but electing Group 3 with traverse.
October 19, 2007	A non-final office action was mailed arguing back the restriction and rejecting claims 36-69.
January 21, 2008	A petition for review to withdraw the final restriction requirement.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification,

> or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed a request for reconsideration, after prosecution was reopened and a restriction was made followed by a non-final office action, in accordance with 37 C.F.R. § 1.143. Although the restriction was never made final in accordance with MPEP § 821.01, the initial restriction requirement was maintained in the next office action which maintained the restriction requirement with arguments. To expedite prosecution of this application, the Office action of October 19, 2007, which maintained the restriction requirement, is being treated as a Final restriction requirement.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

Independent claim 1, features a system with a plurality of servers with a data store comprising persistent storing of configuration information for the servers, the configuration information comprising a plurality of elements and formatted according with data storage format; one of the servers comprising in memory representation of the configuration data; receive a change request indicating a change to be made to an element of the configuration information from a process of the system; execute a test case corresponding to the element to determine if the change indicated by the change request

is valid; and if the change indicated by the change request is valid, apply the change to the configuration information.

Independent claim 18, features a server comprising: a memory comprising an in-memory representation of the configuration information, wherein the configuration information comprises elements, and formatted..., a test case mechanism configured to receive a change request indicating a change to be made to an element of the configuration information from a process; execute a test case corresponding to the element to determine if the change to be made is valid; if the change indicated by the change request is valid, notifying the server that the change indicated by the change request is valid; and if the change indicated by the change request is invalid; notify the server that the change indicated by the change request is invalid.

Independent claim 36, features a method comprising generating on a server an in-memory representation of configuration information from a persistent store of the configuration information, wherein the configuration information comprises a plurality of elements, and formatted...; receive a change request indicating a change to be made to an element of the configuration information from a process of the system; execute a test case corresponding to the element to determine if the change indicated by the change request is valid; and if the change indicated by the change request is valid, apply the change to the configuration information.

To be proper, (A) claims 1-17 should be a distinct invention from originally filed claims 18-35 and 36-69 and (B) there must be a serious burden on the examiner to search and consider the different features beyond the search and consideration required for the original claims 1-69.

In the original restriction requirement, the examiner cites group I is drawn to configurations of network servers; group II is drawn to memory access and control; and group III is drawn to generation of data structures, with argued support for each in the non-final action.

Regarding the distinct feature of "configuration of network servers" allegedly unique to claim 1 and group 1, the data store containing configuration information for the servers and the configuration information is defined to be formatted and contain a plurality of elements. Further one of the servers contains an in-memory representation of the configuration information. The servers are not being configured, they simply state and contain configuration information comprising certain repeated details. Similar limitations are found in independent claim 18 where a server is claimed containing in-memory representation of the configuration information with no distinct differences from claim 1. Further claim 36 recites parallel limitations to claim 1 with a method for an in-memory

representation of configuration information from a persistent store of configuration information.

Regarding the distinct feature of 'memory access and control' allegedly unique to claim 18 and group 2, the features of claim 18 do not cite any different or unique functions with respect to memory that aren't repeated in parallel of claims 1 and 36. Again the claim is directed to a server with request handling. While there is memory comprising in-memory representation of the configuration information, these features and functions are no more unique to the memory of claim 18, than the other two groups.

Lastly, the distinct feature of 'generating of data structures' allegedly unique to claim 36 and group 3 is present in claim 1 as 'generating on a server an in-memory representation of configuration information'. While the word 'generating' is unique, it is merely an inherent step of memory allocation and use that are described in both claims 18 and claim 1. This is not a patentable distinct feature between the claims.

Regarding issue B), the examiner had already performed a search on the claims as originally filed and two more rejections before the restriction requirement. While minor amendments were made, the amended changes were persistent with the claim language already searched in the original filing (see original claims 1, 18 and 36) and further to claims 1-69.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-17, 18-35.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

/brb/

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES 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 08-04

Paper No. 6

DALE POWER
C/O HAROLD VAN WINSSEN
SUITE 200
205 DUNDAS STREET EAST
BELLEVILLE ON K8N 5A2
CANADA

COPY MAILED
AUG 0 5 2004
OFFICE OF PETITIONS

In re Application of	:	
Dale Power	:	
Application No. 10/205,381	:	ON PETITION
Filed: 26 July, 2002	:	
For: Puck Catcher	:	

This is a decision on the petition filed 29 June, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application, and in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

The application became abandoned on 10 December, 2003, for failure to timely reply to the non-final Office action mailed on 9 September, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of

---

[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)).

Abandonment was mailed on 4 June, 2004.

Petitioner asserts that the non-final Office action mailed on 9 September, 2003, was never received.

At the outset, 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).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. A review of the record reveals that the Office Action mailed on 9 September, 2003, was mailed to counsel's address at 205 Dundas Street, East, Suite 200, Belleville, ON K8N 5A2.

Petitioner has not presented a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Additionally a statement from the practitioner stating that a search of the file jacket and docket records indicates that the Office communication in question was not received has not been provided.

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 be "unavoidable".[3] Decisions on reviving abandoned applications on

---

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As petitioners have provided no showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(B)

---

[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The petition is **granted**.

Receipt of the amendment filed with the present petition is acknowledged.

The application is being forwarded to Technology Center 3700 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

7/20/04

The examiner has spoken with this pro se applicant. The allegation is that the application became abandoned because the last Office action was not received. However, the applicant cannot establish nonreceipt with anything approximating the requirements of the Notice (1156 OG 53) as discussed in MPEP 711.03(c). Therefore, the applicant has filed a petition to revive (two really, one unavoidable and one unintentional). Please treat the 37 CFR 1.137 petition(s).

Thanks,

Steve Marcus
SPRE, TC 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DALE POWER
C/O HAROLD VAN WINSSEN
SUITE 200
205 DUNDAS STREET EAST
BELLEVILLE ON K8N 5A2 CA
CANADA

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dale Power
Application No. 10/205,381
Filed: July 26, 2002
Title of Invention: PUCK CATCHER

This is a decision on the petition filed November 30, 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 July 19, 2005 for failure to timely pay the issue fee on or before July 18, 2005. Accordingly, a Notice of Abandonment was mailed November 11, 2005.

The issue fee, petition fee and publication fee have been applied. However, since the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

M4065.0743/P74301

Paper No.

THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

RECEIVED
JUN 23 2004
BY CRC 6-24-04 TIME

COPY MAILED
JUN 21 2004
OFFICE OF PETITIONS

In re Application of
Steven T. Harshfield et al
Application No. 10/205,387
Filed: July 25, 2002
Attorney Docket No. MICS:0061-1/FLE 00-0535.0

ON PETITION

TJD | J Derry | N 6/24/04

This is a decision on the petition, filed June 17, 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 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10 | 11 | 07

TO SPE OF : ART UNIT 2823 Smith, Matthews (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/205387 Patent No.: 7071021

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: All approved.

[signature] 2823
SPE Art Unit

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6803518	2004-10-12	10205415	2002-07-26	BHT-3092-318

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Roger H. Chu, Reg. # 52745/	Date (YYYY-MM-DD)	2009-04-03
Name	Roger H. Chu	Registration Number	52745

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6803518
Issue Date: October 12,2004
Application No. 10205415
Filed: July 26,2002
Attorney Docket No. BHT-3092-318

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

JUL 21 2005

TECHNOLOGY CENTER 3600

Yu-Heng Liu
P.O. Box 6-57
Chung-Ho
Taipei, 235
TAIWAN

In re Application of Yu-Heng Liu Application No. 10/205,418 Filed: July 26, 2002 For: FIGURED AND PATTERNED CASING OF A HOST COMPUTER	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on June 1, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed December 9, 2003. A Notice to that affect was mailed June 29, 2004.

Applicant states that the Office action mailed December 9, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period

after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of June 1, 2005 does not include any statement that the applicant was at the correspondence address at the time the office action would have been received. Also, no statement has been made by others (the "local agent" handling incoming mail, and anyone else at the correspondence address) that the Office Action was not received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/js: 7/15/05

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

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

Yu-Heng Liu
P.O. Box 6-57
Junghe
Taipei 235 TW TAIWAN

In re Application of :
Liu : DECISION ON PETITION
Application No. 10/205,418 :
Filed: July 26, 2002 :
For: FIGURED AND PATTERNED :
CASING OF A HOST COMPUTER :

The above-identified application has been forwarded to the Office of Petitions for consideration of the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment filed September 12, 2005.

The petition is hereby **DISMISSED**.

This application was became abandoned March 10, 2004 for failure to timely submit a proper reply to the non-final Office action mailed December 9, 2003. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 29, 2004. A petition under 37 CFR 1.181 was filed June 3, 2005 and dismissed July 21, 2005.

Petitioner continues to allege non-receipt of the non-final Office action, but have failed to sufficiently establish non-receipt.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to the correspondence address designated by applicant. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from someone with firsthand knowledge stating that the Office communication was not received at the correspondence address of record and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Petitioner alleges that petitioner's "local agent," who's correspondence address petitioner apparently utilized, did a "thorough search and investigation of the file jacket and docket records" and concludes that the non-final Office action was not received.

A copy of what purports to be a docket report was submitted on June 1, 2005. No additional supporting documentation was submitted with the instant renewed petition.

The petition lacks first hand knowledge of the facts contained therein. As petitioner alleges correspondence was directed to his "local agent," it is reasonable to expect a declaration of facts from said "local agent" to support the facts contained in the instant petition, including providing an explanation of the procedures in place for docketing correspondence from the USPTO.

Further, it is noted that the address at the time of the mailing of the petition was: YU-HENG LIU, P.O. BOX 6-57, CHUNG-HO, TAIPEI, 235, TAIWAN. Petitioner confirms that this was the proper address at the time of mailing of the non-final Office action.

Petitioner, however, upon renewed petition requests that all correspondence be directed to the following address: YU-HENG LIU, P.O. BOX NO. 6-57, JUNGHE, TAIPEI 235, TAIWAN.

This requested change of correspondence address has been entered into the record. However, the previous correspondence address is notably similar to the current correspondence address. Explanation is required so that it can be determined if there was a reasonable expectation that petitioner would receive correspondence at the address containing the "Chung-Ho" designation.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional or unavoidable pursuant to 37 CFR 1.137(b) and (a) respectively. See enclosed for additional guidance.

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

Enclosures: Forms/PTO Privacy Statement

PTO/SB/66 (10-05)
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. _____ Application Number _____

Issue Date _____ Filing Date _____

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____ ;
original application number _____ ,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____ .

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ Date

_____ Signature

_____ Typed or printed name of person signing Certificate

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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 1/2 yr fee	(1551)	☐ $ _____	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $_____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ _____ (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $_____

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☐ Please charge Deposit Account No._____ the sum of $_____. A duplicate copy of this authorization is attached.

☐ 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._____. A duplicate copy of this authorization is attached.

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.

_____ _____
Signature(s) of Petitioner(s) Date

_____ _____
Typed or printed name(s) Registration Number, if applicable

_____
Telephone Number

_____
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)

☐ _____

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United Sates Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Yu-Heng Liu
P.O. Box 6-57
Junghe
Taipei 235 TW TAIWAN

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Liu : DECISION ON PETITION
Application No. 10/205,418 :
Filed: July 26, 2002 :
For: FIGURED AND PATTERNED :
CASING OF A HOST COMPUTER :

This is a decision on the renewed petition under 37 CFR 1.181, filed June 30, 2006, to withdraw the holding of abandonment.

The petition is hereby **GRANTED**.

This application was held abandoned March 10, 2004 for failure to timely submit a proper reply to the non-final Office action mailed December 9, 2003. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 29, 2004.

Petitioner alleges non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and evidence advanced by petitioner have been carefully considered and found convincing.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 3600 for mailing of a new Office action. The time period for response will be set to run from the date the new Office action is mailed.

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

COPY MAILED

MAY 24 2007

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of
Michael P. Hawkes, et al.
Application No. 10/205,430
Filed: July 24, 2002
Attorney Docket No. 10529

ON PETITION

This is a decision in response to the petition, filed February 5, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 22, 2006. A Notice of Abandonment was mailed October 3, 2006. On February 5, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

Petitioner should note that no extension of time fees will be charged to counsel's deposit account as requested, since no extension of time fees are due on a petition for revival.

The application is being referred to Technology Center AU 2131 for consideration of the response filed February 5, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE, SUITE 350
NEPEAN, ONTARIO K2G 5X3 CANADA

COPY MAILED

MAR 12 2004

OFFICE OF PETITIONS

In re Application of	:
Deborah Jean Henry et al	:
Application No. 10/205,443	: DECISION GRANTING PETITION
Filed: July 26, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 51-20 US	:

This is a decision on the petition, filed February 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 December 17, 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.

This matter is being referred to Technology Center AU 2878 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MAILED
OCT 24 2003
OFFICE OF DIRECTOR
GROUP

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of)
John F. Magana et al.)
Application No.10/205,469)
Filed: July 26, 2002)
For: WAFER LEVEL ELECTRO-OPTICAL)
SORT TESTING AND WAFER LEVEL)
ASSEMBLY OF MICRO LIQUID)
CRYSTAL-ON SILICON (LCOS))
DEVICES)

DECISION ON PETITION

This is a decision on the request to withdraw as attorneys of record under 37 C.F.R. § 1.36, filed June 23, 2003.

The request is APPROVED.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul J. Skwierawski on behalf of all attorneys of record.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. This decision results in the application having no attorney of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc. Grace Abercrombie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

Kamilo Feher
44685 Country Club Drive
El Macero, CA 95618

COPY MAILED
MAY 17 2004
OFFICE OF PETITIONS

In re Application of	:	
Kamilo Feher	:	
Application No. 10/205,478	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. 10,205,478	:	

This is a decision on the petition filed May 4, 2004, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED.**

A nonfinal Office action was mailed to applicant on June 25, 2003, setting a three-month shortened statutory period within which to submit a reply. No reply having been received, the application became abandoned on September 25, 2003. However, petitioner has provided a copy of an amendment and request for a one month extension of time, which was mailed via certificate of mailing under 37 CFR 1.8(b) on October 3, 2003. In view thereof, the amendment was timely filed and the abandonment of the application is hereby withdrawn.

Accordingly, the petition to revive and fee of $1,330 are unnecessary. It is noted that the extension of time fee of $110 was never processed. Therefore, the $110 extension of time fee will be deducted from the $1,330 petition fee, which leaves a balance of $1,220. Petitioner may request a refund of the $1,220 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The application file is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MICHAEL WITTIG
111 SARATOGA AVE. #2326
SANTA CLARA, CA 95051

COPY MAILED
JUL 22 2005
OFFICE OF PETITIONS

In re Application of :
Michael Wittig :
Application No. 10/205,514 :
Filed: July 25, 2002 :
For: MAGNETORHEOLOGICAL :
FLUID DAMPER :

This is a decision in response to the Petition Under 37 CFR 1.137(b), filed July 8, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-compliant Amendment (hereinafter "Notice"), mailed July 8, 2004, and re-mailed August 12, 2004. The Notice set a one (1) month period for reply, and provided for extenstions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned September 13, 2004. A Notice of Abandonment was mailed on March 18, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3783 for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM NC 27713

MAIL

JAN 1 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Basil et al.
Application No. 10/205,523
Filed: July 25, 2002
For: **METHODS FOR DETECTING AND POLLING DOWNSTREAM MODEMS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 2, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

COPY MAILED

JUN 06 2007

OFFICE OF PETITIONS

In re Application of :
Yabuuchi et al. :
Application No. 10/205,541 : DECISION ON PETITION
Filed: 07-25-2002 :
Attorney Docket No. ITO 4 :

This is a decision on the petition under 37 CFR 1.181, filed March 6, 2007, to withdraw the holding of abandonment for the above-identified application.

On June 19, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. On December 22, 2006 (certificate of mailing dated December 19, 2006), applicant submitted a response, a request for an extension of time for filing a response within the third month, and the requisite fee. On January 4, 2007, the Office mailed a Notice of Abandonment, indicating the application was abandoned because no reply was received.

In the present petition, applicant asserted that he filed a timely reply pursuant to 37 CFR 1.8. A review of the record reveals that on December 22, 2006, the Office received applicant's request for a three-month extension of time to respond, the required fee, and the reply, which included a certificate of mailing dated December 19, 2006. Accordingly, the response is considered timely filed on December 19, 2006. See 37 CFR 1.8(a).

The petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

The matter is being referred to Technology Center Art Unit 3637 for a review of the reply filed on December 22, 2006 (certificate of mailing dated December 19, 2006).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GERALD H. GLANZMAN
APT 825
6302 WINDCREST DRIVE
PLANO, TX 75024

COPY MAILED

NOV 30 2005

OFFICE OF PETITIONS

In re Application of :
Richard Maurer and Donald P. Katz :
Application No. 10/205,561 : DECISION ON PETITION
Filed: July 25, 2002 : UNDER 37 CFR 1.137(b)
For: REINFORCED SPLASH GUARD :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 25, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 26, 2004. A Notice of Abandonment was mailed on December 3, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

While the petition complies with all the above requirements, in view of the statements presented by applicant Daniel P. Katz, there is a question as to whether the abandonment of this application was unintentional. In this regard, it appears that Mr. Gerald Glanzman, applicants' representative at the time, indicated to the examiner that the application was to go abandoned.

An adequate showing of unintentional delay must include a statement from Mr. Glanzman as to why action was not taken to prevent the application from becoming abandoned while the application was under Mr. Glanzman's control, especially in view of Mr. Katz's assertions in the petition that he did not authorize the abandonment of this application at any time.

Petitioner is advised to send a letter to Mr. Glanzman, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that Mr. Glanzman provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the above-identified application from becoming abandoned. Petitioner is advised that in the event that Mr. Glanzman does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

In view of the above, any renewed petition must establish, with supporting documentation, that this application was not intentionally permitted to become abandoned.

Further, the concurrently filed revocation and power of attorney is not acceptable since it was not signed by all the applicants. The petition indicates that co-inventor Richard Maurer is deceased. Therefore, a new power of attorney also executed by the heirs, administrators, executors, or assignees is necessary. Accordingly, until such time as an appropriate revocation and power of attorney is received, all future correspondence regarding this application will be mailed to the above-noted address of record. A courtesy copy of this decision is being mailed to petitioner herein.

Additionally, it appears from USPTO records that Mr. Glanzman's address may have changed. Accordingly, a copy of this decision is being mailed to Mr. Glanzman at the address shown in Office records.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Michael D. Beck
111 Monument Circle, Suite 3000
Indianapolis, IN 46204

Gerald Glanzman
Yee & Associates, PC
4100 Alpha Road, Suite 1100
Dallas, TX 75244

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAGINOT MOORE & BECK LLP
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS, IN 46204

COPY MAILED

MAR 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard Maurer and Donald P. Katz	:	
Application No. 10/205,561	:	DECISION GRANTING PETITION
Filed: July 25, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1979-0001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 25, 2004, which set a shortened statutory period for reply of thee (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 26, 2004. A Notice of Abandonment was mailed on December 3, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE), RCE fee of $395, and submission as required by 37 CFR 1.114; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 25, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 3618 for processing the RCE and for consideration of the reply received August 29, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions