SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/2008

TO SPE OF : ART UNIT 1700 (1797)

SUBJECT : Request for Certificate of Correction on Patent No.:6,827,764

Attn: Jason Greene

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***ok to enter changes to claims 48 & 49 as req. in COCIN? eDan.**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: ok to enter

/Duane Smith/

Supervisory Patent Examiner

Art Unit 1797

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/2008

TO SPE OF : ART UNIT 1700 (1797)

SUBJECT : Request for Certificate of Correction on Patent No.:6,827,764

Attn: Jason Greene

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

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Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***ok to enter changes to claims 48 & 49 as req. in COCIN? eDan.**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: ok to enter

/Duane Smith/

Supervisory Patent Examiner

Art Unit 1797

10-205567 SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/7/05

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6798814 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 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

MINGSEN HARVEY
SPE

2828
Art Unit

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

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AUG 23 2007

OFFICE OF PETITIONS

Jerome L. Jeffers, Esq.
Bayer Corporation
P.O. Box 40
Elkhart IN 46515-0040

In re Application of:
BROWN, Michael, K.
Application No.: 10/205,574
Filed: July 26, 2002
Atty's Docket No.: MSE #2643

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed August 02, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed March 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on June 23, 2007.

On August 02, 2007, 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 payment of the issue and publication fees. Accordingly, the issue and publication fee payment is accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

OIPE JC10 MAY 03 2004 PATENT & TRADEMARK OFFICE

IFW

AF/1753

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.

61

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/205,579
Filing Date	July 24, 2002
First Named Inventor	Yaoqing Diana Liu
Art Unit	1753
Examiner Name	STARSIAK, John
Attorney Docket Number	28621-702

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.

Approved JUL 13 2004
Jacqueline M. Stone, Director
Technology Center 1700

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s).

☒ the attorneys/agents associated with Customer Number 021971

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: Biomics, Inc.. is $6,360.22 in arrears and the client have been unable to make further payments since July 17, 2002. Attached is a copy of Biomics, Inc. Statement of Account.

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	Yaoqing Liu				
Address	946 Westcreek Lane, #124				
Address					
City	Westlake Village	State	CA	Zip	91362
Country	U.S.				
Telephone	(650) 278-9022		Fax		
Name	Shirley Chen, Ph.D.				
Signature			Registration No.	44,608	
Date	4-29-04		Telephone No.	(650) 565-3856	

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.

American LegalNet, Inc.
www.USCourtForms.com

WSGR Wilson Sonsini Goodrich & Rosati
PROFESSIONAL CORPORATION

FED TAX I.D. 94-2451946

TEL 650-845-5995
FAX 650-858-4462

finance@wsgr.com

EXHIBIT A

OIPE
MAY 0 3 2004
PATENT & TRADEMARK OFFICE

REMIT PAYMENT TO: FILE NO. 73672 / P.O. BOX 60000 / SAN FRANCISCO, CA 94160-3672

Monday, April 19, 2004

Biomics Inc
834 Morningside Dr
Millbrae, CA 94030
United States

RE: Client No. 28621

STATEMENT OF ACCOUNT

THIS DOCUMENT IS NOT AN INVOICE. IT IS A STATEMENT DETAILING ALL OPEN ITEMS ON YOUR ACCOUNT.

Date	Invoice #	Total Billed	Payments/Credits	Balance
9/25/2002	791269	$950.00	$0.00	$950.00
9/25/2002	791271	$3,034.05	$1,321.60	$1,712.45
11/18/2002	799659	$1,415.90	$124.85	$1,291.05
1/30/2003	811656	$50.60	$0.00	$50.60
1/30/2003	811657	$54.45	$0.00	$54.45
2/27/2003	815577	$316.20	$0.00	$316.20
3/28/2003	819148	$709.65	$0.00	$709.65
7/18/2003	835479	$25.45	$0.00	$25.45
7/18/2003	835480	$61.65	$0.00	$61.65
10/13/2003	847498	$46.05	$0.00	$46.05
12/12/2003	857168	$1,027.65	$0.00	$1,027.65
12/12/2003	857170	$60.00	$0.00	$60.00
1/16/2004	861872	$55.00	$0.00	$55.00

TOTAL: 6,360.20

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

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

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NOV 0 4 2004

OFFICE OF PETITIONS

In re Application of
David Barbano
Application No. 10/205,581
Filed: July 25, 2002
Attorney Docket No. 1153.040US1

DECISION ON PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

This application issued into Patent No. 6,808,735 on October 26, 2004. Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $395 filing fee submitted therefor will be refunded in due course. No fee has been assessed to the instant petition to withdraw from issue.

The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

The concurrently filed petition under 37 CFR 1.48 has been referred to the SPRE of Technology Center 1700 for appropriate action. Inquiries concerning the petition should be directed to the SPRE.

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

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

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

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
David Barbano :
Application No. 10/205,581 : ON PETITION
Filed: 25 July, 2002 :
Atty Docket 1153.040US1 :

This is a decision on the petitions filed under 37 CFR 1.47(a) and 1.48(b), on 25 August, 2004, which are being treated collectively as (a) a petition under 37 CFR 1.183 to waive 1.48(b), and (b) a petition under 37 CFR 1.47(a).

The petition is **dismissed as moot**.

The above-identified application was filed on 25 July, 2002. On 22 October, 2002, petitioners filed an executed declaration naming David Barbano as the sole inventor.

On 13 September, 2004, petitioner submitted the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on 8 June, 2004.

On 22 October, 2004, petitioners filed a petition to withdraw from issue.

On 25 October, 2004, an RCE was filed, accompanied by a declaration naming David Barbano, Christine Cholish Nicklas, and Brandon Nelson as joint inventors and signed by Barbano and Nelson, the present petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.48(a) to correct the inventorship.

On 26 October, 2004, the application issued as U.S. Patent No. 6,808,935.

On 4 November, 2004, the petition to withdraw from issue was dismissed.

Petitioner requests that Nicklas and Nelson be added as joint

inventors, and state that Nicklas could not be reached to sign the declaration.

Petition Under 37 CFR 1.47(a)

As 37 CFR 1.47(a) applies only to applications for patents, and the above-identified application has now issued, the petition under 37 CFR 1.47(a) must be **dismissed as moot**.

Petition Under 37 CFR 1.48(b)

MPEP 1481 states, in pertinent part:

> If a request under 37 CFR 1.48(a), (b), or (c) is filed in a pending application but not acted upon until after the application becomes a patent, the request may be treated as a petition under 37 CFR 1.324, and if it is grantable, form paragraph 10.14 set forth below should be used. The statutory basis for correction of inventorship in a patent under 37 CFR 1.324 is 35 U.S.C. 256. It is important to recognize that 35 U.S.C. 256 is stricter than 35 U.S.C. 116, the statutory basis for corrections of inventorship in applications under 37 CFR 1.48. 35 U.S.C. 256 requires "on application of all the parties and assignees," while 35 U.S.C. 116 does not have the same requirement. Under 35 U.S.C. 116 and 37 CFR 1.48, waiver requests under 37 CFR 1.183 may be submitted (see, e.g., MPEP § 201.03, under the heading "Statement of Lack of Deceptive Intention"). This is not possible under 35 U.S.C. 256 and 37 CFR 1.324. In correction of inventorship in a nonprovisional application under 37 CFR 1.48(a), the requirement for a statement by each originally named inventor may be waived pursuant to 37 CFR 1.183; however, correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties, i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. 256) and thus the requirement cannot be waived.

While it is an unfortunate situation that the petition under 37 CFR 1.48 was not treated prior to issuance, petitioner must nevertheless file a grantable petition under 37 CFR 1.324 in order to correct the inventorship of the issued patent.

A petition under 37 CFR 1.324 must be accompanied by

(1) a statement from each person who is being added as an

inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) a statement from the current named inventor who has not submitted a statement under paragraph (1) above either agreeing to the change of inventorship or stating that he has no disagreement in regard to the requested change; and

(3) a statement from all assignees of the parties submitting statements under paragraphs (1) and (2) above agreeing to the change of inventorship in the patent, which statement must comply with the requirements of 37 CFR 3.73(b) and

(4) the fee set forth in 37 CFR 1.20(b).

In view of the fact that petitioner has not presented a proper petition under 37 CFR 1.324, the petition is **dismissed as moot**.

If petitioner is unable to obtain the required signatures, petitioner may wish to consider judicial proceedings under 35 USC 256 (second paragraph) or the filing of a reissue application.

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

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

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

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

The petition fee charged of $130.00 will be credited to counsel's deposit account, No. 19-0743, as authorized in the present petition.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

06.23.05 10-205581

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-23-05 Paper No.: _____

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction on Patent No.: 6808735

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

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

Thank You For Your Assistance

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

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

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

Comments:

Carolyn Paden
CAROLYN PADEN 1761
PRIMARY EXAMINER 10-3-05

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE
TECHNOLOGY CENTER 1700

1761
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 29 2007

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

In re Application of :
Peter D. Geiger et al :
Application No. 10/205,590 : DECISION ON PETITION
Filed: July 25, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 6057-29901 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2819 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/205,590	07/25/2002	2819	1120	6057-29901	4	2

CONFIRMATION NO. 6013

CORRECTED FILING RECEIPT

35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

OC000000024119629

Date Mailed: 05/29/2007

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

Applicant(s)

Peter D. Geiger, Austin, TX;
Manuel J. Alvarez II, Austin, TX;
Thomas A. Dye, Austin, TX;

Assignment For Published Patent Application

Interactive Silicon, Incorporated, Austin, TX

Power of Attorney: The patent practitioners associated with Customer Number **35690**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/307,964 07/26/2001
and is a CIP of 09/239,659 01/29/1999 PAT 7,190,284
and is a CIP of 09/491,343 01/26/2000 PAT 6,822,589

Foreign Applications

If Required, Foreign Filing License Granted: 08/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/205,590

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Network device with improved storage density and access speed using compression techniques

Preliminary Class

341

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

GOWLING LAFLEUR HENDERSON LLP
COMMERCE COURT WEST, SUITE 4900
TORONTO, ON M5L 1J3
CANADA

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JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Gregory M. Ross, et al. :
Application No. 10/205,601 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. T8466362US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 5, 2002.

The Revocation and Power of Attorney and Change of Correspondence Address submitted on May 28, 2003, has been previously accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ANTONELLI TERRY STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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OFFICE OF PETITIONS

In re Application of	:	
Peter Moenickheim et al	:	
Application No. 10/205,614	:	DECISION ON PETITION
Filed: July 26, 2002	:	TO WITHDRAW
Attorney Docket No. 3350-91	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with customer No. 020457 have been revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3624.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of
Blake Keown et al
Application No. 10/205,615
Filed: July 26, 2002
Attorney Docket No.: 3350-0091A

ON PETITION

This is a decision on the petition, filed June 5, 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 27, 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) 272-3208.

The application is being referred to Technology Center AU 2167 for further processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
Blake Keown et al :
Application No. 10/205,615 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 3350-0091A :

This is a decision on the petition filed September 26, 2006, 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 July 5, 2006, with the issue fee being due on or before October 5, 2006. The petition states that the issue fee in this case has not been paid.

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 July 5, 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.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2167.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6869910
Issue Date: March 22,2005
Application No. 10205628
Filed: July 26,2002
Attorney Docket No. 0175-0333P

:
: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.

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)
6869910	2005-03-22	10205628	2002-07-26	181.001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mitchell A. Smolow/	Date (YYYY-MM-DD)	2009-10-19
Name	Mitchell A. Smolow	Registration Number	43140

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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OFFICE OF PETITIONS

In re Application of :
Eva A. TURLEY, et al :
Application No. 10/205,647 : DECISION ON PETITION
Filed: July 23, 2002 : TO WITHDRAW
Attorney Docket No. SIM/11 CON : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 3, 2007.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GAROLD BREIT
UNIVERSITY OF MANITOBA
TECHNOLOGY TRANSFER OFFICE,
181 FREEDMAN CRESCENT
631 DRAKE CENTRE
WINNIPEG, MANITOBA R3T SV5
CANADA

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
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NEW YORK, NY 10036-8704

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OFFICE OF PETITIONS

In re Application of
Eva A. TURLEY, et al
Application No. 10/205,647
Filed: July 23, 2002
Attorney Docket No. SIM/11 CON

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 1, 2008.

The request is **APPROVED**.

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

The request was signed by James F. Haley, Jr. on behalf of all attorneys of record who are associated with customer No. 1473.

All attorneys/agents associated with the Customer Number 1473 have been withdrawn.

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

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

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

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EVA A. TURLEY
C/O THE HOSPITAL FOR
SICK CHILDREN
555 UNIVERSITY AVENUE, RM 3014
MCMASTER BLDG.
TORONTO, ONTARION, M5G 1X8

cc: GAROLD BREIL
UNIVERSITY OF MONILOBA
TECHNOLOGY TRANSFER OFFICE
181 FREEDMAN CRESCENT,
631 DRAKE CENTRE
WINNIPET, MANILOBA R3T 2N2
CANADA

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
10/205,647	07/23/2002	Eva A. Turley	SIM/11 CON

CONFIRMATION NO. 8860

POWER OF ATTORNEY NOTICE

1473
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 03/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2008.

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

/dcgoodwyn/

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

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JJGJR.: 11-03

Paper No: 5

LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA FL 32922

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of
Lee :
Application No. 10/205,651 : ON PETITION
Filed: 25 July, 2002 :
Attorney Docket No. PC1568REV :

This is a decision on the petition filed on 29 August, 2003, to revive the above-identified application under 37 C.F.R. §1.137(a)

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

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b) (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

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

(3) The Power of Attorney filed of record on 29 August, 2003, is acknowledged and accepted.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (Filing Date Granted) mailed on 9 August, 2002, with a reply due (absent a request and fee for extension of time) on or before 9 October, 2002;
- a result, the application was deemed abandoned after midnight 9 October, 2002;
- it appears that no Notice of Abandonment was mailed before the instant petition was filed;
- Petitioner and Counsel (Brian S. Steinberger (Reg. No. 36,423) filed the instant petition on 29 August, 2003--under 37 C.F.R. §1.137(a)--stating only:

> Applicant hereby petitions for revival of this application.
>
> Applicant further states that his lack of reply was unavoidable due to his lack of understanding of the Notice oand the fact that he was not represented by a Registered Patent Attorney.
>
> The reply to the above notice Office notice in the form of a substitute specification in compliance with 37 C.F.R. §1.52 is enclosed.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Petitioner has failed to make a showing of unavoidable delay, the required showing under the regulation.

Accordingly, in view of the record, the petition as considered under 37 C.F.R. §1.137(a) hereby is **dismissed** for failing to satisfy the "showing" requirement.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore, and, therefore, Petitioner's only alternative to irretrievable abandonment likely is to file a petition and fee as set forth at NOTE 1, above at page 1, under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional."

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous.

---

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

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

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

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

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

Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

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

By mail: (Effective 1 May, 2003)[7]
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 CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR: 01-04

Paper No. 18

LAW OFFICES OF
BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA FL 32922

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JAN 2 9 2004

OFFICE OF PETITIONS

In re Application of
Lee :
Application No. 10/205,651 : ON PETITION
Filed: 25 July, 2002 :
Attorney Docket No. PC1568REV :

This is a decision on the petition filed on 17 November, 2003, to revive the above-identified application 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 **GRANTED**.

NOTE: The petition in the instant matter failed to state expressly that the entire delay from the due date of the reply until the filing of a grantable petition was unintentional, however, in the interest of time the petition has been read to contain that statement.

If this interpretation is incorrect, Petitioner **must** notify the Office immediately.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (Filing Date Granted) mailed on 9 August, 2002, with a reply due (absent a request and fee for extension of time) on or before 9 October, 2002;

- a result, the application was deemed abandoned after midnight 9 October, 2002;

- it appears that no Notice of Abandonment was mailed before the instant petition was filed;

- the original petition filed by Petitioner and Counsel (Brian S. Steinberger (Reg. No. 36,423) filed the instant petition on 29 August, 2003--under 37 C.F.R. §1.137(a) was dismissed on 5 November, 2003, for failing to satisfy the "showing" requirement under the regulation;

- as indicated above, the instant petition (with fee) was filed on 17 November, 2003--and included a copy of the required reply;

The matter of the "statement" requirement has been addressed above.

The fees paid ($1,005.00) are not due and will be refunded via Treasury check (to follow).

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).

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.[1]

Delays in responding properly raise the question whether delays are unavoidable.[2] 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).[3]

---

[1] 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.

[2] 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).

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

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5])

CONCLUSION

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

The instant application is forwarded to OIPE for further processing before being forwarded for examination in due course.

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

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

---

[4] 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.

[5] 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.

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

FEB 14 2006

TECHNOLOGY CENTER 3600

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P.A.
101 Brevard Avenue
Cocoa, FL 32922

In re Application of
Lanny Ray Lee
Application No. 10/205,651
Filed: July 25, 2002
For: PASSIVE SAFETY BLOCK

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 February 4, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated July 8, 2004.

☐ 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.

RAR/js: 2/1/06

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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KONRAD RAYNES & VICTOR LLP
315 S BEVERLY DRIVE, #210
BEVERLY HILLS, CA 90212

COPY MAILED

NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Sailesh Bissessur et al :
Application No. 10/205,662 : DECISION ON PETITION
Filed: July 24, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P14205 :

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

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded to petitioner's deposit account in due course.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

This matter is being referred to Files Repository.

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

Date Mailed : August 31, 2009
Serial No. : 6,820,140 B2
Patent No. :10/205662
Patent Issued :November 16, 2004
Inventor(s) :Sailesh Bissessur, et al.
Title :METHOD SYSTEM, AND PROGRAM FOR RETURNING DATA REQUESTS TO BE READ REQUESTS RECEIVED OVER A BUS

Re: Request for Certificate of Correction

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

Respecting the alleged errors noted in your request, columns 14 and 15 lines 66/47 is printed in accordance with the record.

In view of the foregoing your request in this matter is herby denied.

A certificate of correction will issue for the remaining errors noted in your request.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Requests for Reconsideration should be accompanied by additional support (e.g. copy of amendments, post card receipts) as requested.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703)756-1540

Konrad Rayne & Victor LLP
315 S. Beverly Dr., Ste. 210
Beverly Hills, CA 90212

MD/mt

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United States Patent and Trademark Office
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APR 25 2006

OFFICE OF PETITIONS

KONRAD RAYNES & VICTOR
315 S. BEVERLY DRIVE
STE. 210
BEVERLY HILLS CA 90212

In re Application of :
Sailoesh Bissessur et al :
Application No. 10/205,663 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. P14207 :

This is a decision on the petition, filed April 21, 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 April 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2182 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTENSEN O'CONNOR
JOHNSON KINDNESS
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Koichiro Ishibashi et al :
Application No. 10/205,677 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. SUSU119482 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 22, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee), or a continuing application was timely filed. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 23, 2003.

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

The application file is being referred to Technology Center AU 2816 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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
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P.O. Box 1450
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BRIAN M. DINGMAN
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
100 FRONT STREET
WORCESTER, MA 01608

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Shailendra Depura, et. al.	:	
Application No. 10/205,687	:	ON PETITION
Filed: July 26, 2002	:	
Attorney Docket No. 18223-00001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 17, 2005, to revive the above-identified application.

In response to the non-final Office action mailed November 17, 2004, petitioner hereby submits $750 for the petition to revive fee, an amendment, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Change of Correspondence Address, filed by facsimile transmission on December 10, 2004, has been made of record.

The application file is being referred to Technology Center Art Unit 2167, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Peter R. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7614949	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/205,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** 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. 8

CHANG CHIN-CHIH
PO BOX 2-10
TAINAN CITY
TAIWAN

COPY MAILED

JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Chang et al.
Application No. 10/205,730
Filed: July 17, 2002
For: FAN BLADE

ON PETITION

This decision concerns the April 9, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application, upon filing, enclosed a $355 check for the $370 application basic filing fee (small entity), resulting in a $15 deficiency.

On August 23, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable, non-statutory period for submitting the $15 fee deficiency and the $65 surcharge (small entity) for late filing of the entire fee (see attached).

The fees were not filed on or before March 23, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on October 24, 2002.

The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the $15 fee deficiency and the $65 surcharge, totaling $80; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in remitting the fees from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition lacks item (1), and the Office is unable to locate any authorization to charge the fees to a deposit account or a credit card. The petition is thus dismissed.

A renewed §1.137(b) petition (no petition fee) must:

-include the $80 payment;

-be filed within **TWO MONTHS** of the mailing date of this decision (extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s));

and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

In addition, the petition is accompanied by a power of attorney, signed by only 1 of the 2 joint-inventors for the instant claimed invention, as well as a request to change the correspondence address for this application,[1] signed by the practitioner appointed in this power of attorney. Therefore, both the power of attorney and the new correspondence address have **not** been entered.[2]

Finally, while a courtesy copy of this decision is being sent to the practitioner signing the instant petition, all future correspondence on this application will be mailed to the current correspondence-address-of-record unless the USPTO is properly informed otherwise.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice to File Missing Parts of Nonprovisional Application (8/23/02; courtesy copy)

cc w/ attachment: Jiawei Huang, Esq.
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

---

[1] An incorrect inventor name is included.

[2] See MPEP 402.10 (Rev. 1, Feb. 2003) (Papers giving . . . a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers . . . giving a power of attorney will not be accepted by the USPTO when signed by less than all of the applicants or owners . . . unless . . . accompanied by a petition and fee under 37 CFR 1.182 **giving good and sufficient reasons** as to why such papers should be accepted.). The renewed §1.137(b) petition may be filed concurrently with the §1.182 petition ($130 petition fee).

UNITED STATES 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

CHANG CHIN-CHIH
PO BOX 2-10
TAINAN CITY
TAIWAN

IPE JC73
AUG 05 2004
PATENT & TRADEMARK OFFICE

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JUN 14 2004
OFFICE OF PETITIONS

In re Application of
Chang et al.
Application No. 10/205,730
Filed: July 17, 2002
For: FAN BLADE

ON PETITION

This decision concerns the April 9, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application, upon filing, enclosed a $355 check for the $370 application basic filing fee (small entity), resulting in a $15 deficiency.

On August 23, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable, non-statutory period for submitting the $15 fee deficiency and the $65 surcharge (small entity) for late filing of the entire fee (see attached).

The fees were not filed on or before March 23, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on October 24, 2002.

The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the $15 fee deficiency and the $65 surcharge, totaling $80; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in remitting the fees from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition lacks item (1), and the Office is unable to locate any authorization to charge the fees to a deposit account or a credit card. The petition is thus dismissed.

A renewed §1.137(b) petition (no petition fee) must:

-include the $80 payment;

-be filed within **TWO MONTHS** of the mailing date of this decision (extensions of time under 37 CFR 1.136(a) are available with payment of the appropriate fee(s));

and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

In addition, the petition is accompanied by a power of attorney, signed by only 1 of the 2 joint-inventors for the instant claimed invention, as well as a request to change the correspondence address for this application,[1] signed by the practitioner appointed in this power of attorney. Therefore, both the power of attorney and the new correspondence address have **not** been entered.[2]

Finally, while a courtesy copy of this decision is being sent to the practitioner signing the instant petition, all future correspondence on this application will be mailed to the current correspondence-address-of-record unless the USPTO is properly informed otherwise.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice to File Missing Parts of Nonprovisional Application (8/23/02; courtesy copy)

cc w/ attachment: Jiawei Huang, Esq.
J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

---

[1] An incorrect inventor name is included.

[2] See MPEP 402.10 (Rev. 1, Feb. 2003) (Papers giving . . . a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers . . . giving a power of attorney will not be accepted by the USPTO when signed by less than all of the applicants or owners . . . unless . . . accompanied by a petition and fee under 37 CFR 1.182 **giving good and sufficient reasons** as to why such papers should be accepted.). The renewed §1.137(b) petition may be filed concurrently with the §1.182 petition ($130 petition fee).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

JIAWEI HUANG, ESQ.
J.C. PATENTS
4 VENTURE, SUITE 250
IRVINE, CA 92618

COPY MAILED

SEP 10 2004

OFFICE OF PETITIONS

In re Application of
Chang et al.
Application No. 10/205,730
Filed: July 17, 2002
For: FAN BLADE

ON PETITION

This decision concerns the August 5, 2004 renewed petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The previous §1.137(b) petition was dismissed on June 14, 2004 for lacking the $15 filing fee deficiency and the $65 surcharge (small entity) for late filing of the entire filing fee.

The instant renewed petition encloses a $80 check for paying the fees and is thus granted.

The application is now complete.

In addition, the power of attorney and the new correspondence address have been entered and made of record.

The file is being forwarded to Technology Center 3700 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice of Acceptance of Power of Attorney (accepting 8/5/04 Power of Attorney)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

In re Application of	:	
Talley et al.	:	
Application No. 10/205,732	:	ON PETITION
Filed: July 26, 2002	:	
Attorney Docket No. S02978	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 14, 2004. A Notice of Abandonment was mailed on February 22, 2005.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

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OCT 25 2006

OFFICE OF PETITIONS

In re Application of :
John T. TALLEY et al :
Application No. 10/205,732 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01-285-T :

This is a decision on the petition, filed August 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**, *nunc pro tunc*.

The file record discloses the following:

- A first Notice of Allowance and Fee(s) Due was mailed on September 13, 2004, requiring submission of the issue and publication fees. No drawings were required by the Notice of Allowability.
- On February 22, 2005, a Notice of Abandonment was mailed for failure to timely pay the issue and publication fees.
- On June 6, 2005, a petition to accept the unintentionally delayed payment of the issue and publication fees was filed.
- The petition to revive was granted on June 14, 2005.
- Thereafter, on August 4, 2005, a petition to withdraw from issue under 37 CFR 1.313(c)(2), a request for continued examination under 37 CFR 1.114, and an Information Disclosure Statement were filed.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114, prosecuted the application, and ultimately issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on June 14, 2006.

Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted by an appropriate deciding official. Therefore, the examiner was without authority to act further in this case absent a grantable

petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The file record of this case discloses that Part B - Fee(s) Transmittal form was received on September 14, 2006. It is further noted that this application is currently scheduled to issue on November 14, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Y. ROCKY TSAO
FISH & RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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APR 23 2007

OFFICE OF PETITIONS

In re Application of

Tai-Jay Chang
Application No. 10/205,737
Filed: July 25, 2002
Attorney Docket No. 14321-003001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 Y Rocky Tsao on behalf of all attorneys of record with the firm of Fish & Richardson, PC. All attorneys/agents associated with this firm have been withdrawn.

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

A Notice of Appeal and a two month extension of time in reply to the final Office action of October 18, 2006 were timely received on March 18, 2007. Accordingly, the two month extendable period for filing an Appeal Brief, or for taking such further action to maintain pendency of the application, runs from the date of filing of the Notice of Appeal. *Note* 37 CFR 41.37.

Accordingly, all correspondence will be mailed to the sole inventor Tai-Jay Chang. A courtesy copy of this decision will also be mailed to the address noted in the petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Tai-Jay Chang
No. 201, Sec. 2
ShihPai Road
Taipei, TAIWAN, R.O.C.

cc: Tai-Jay Chang
Targetgen, Inc.
15F-1, No. 159, Sec. 1, Ji-Long Road
Taipei, 110, TAIWAN

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/205,737	07/25/2002	Tai-Jay Chang	14321-002001

CONFIRMATION NO. 9641

OC000000023398682

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 04/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2007.

- 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.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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PATENT ADMINISTRATOR
TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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MAY 23 2006
OFFICE OF PETITIONS

In re Application of :
James Stuart Wight :
Application No. 10/205,743 :
Filed: July 26, 2002 :
Attorney Docket No. ICE-010CP :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 29, 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 sold to a third party, 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.

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: KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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Paper No. 7

Blakely, Sokoloff, Taylor and Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Aditya Bhasin, et al.	:	
Application No. 10/205,767	:	DECISION GRANTING PETITION
Filed: July 25, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3399P092	:	

This is a decision on the petition filed May 14, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **DISMISSED AS MOOT**.

If an applicant makes a Nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made. In the instant application, a notice to rescind was filed prior to the filing date of the foreign filing. See 35 U.S.C. § 122(b)(2)(B)(ii).

In view of the above, the petition fee of $1300 is being credited to petitioner's deposit account as authorized.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 2, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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UNIVERSITY OF CALIFORNIA
LOS ALAMOS NATIONAL LABORATORY
P.O. BOX 1663, MS A187
LOS ALAMOS NM 87545

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OFFICE OF PETITIONS

In re Application of :
Jaeyoung Park et al :
Application No. 10/205,786 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. S-94,768 :

This is a decision on the petition, filed November 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

P titioner is advised that the issue fee paid on November 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

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

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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986 BEDFORD STREET
STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

In re Application of

Giovanni D'Agostini

Application No. 10/205,809

Filed: July 26, 2002

Attorney Docket No. 02140-P0004A

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed February 28, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on May 2, 2006. An Advisory Action mailed August 30, 2006, advised petitioner that the response of May 2, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on May 29, 2006.

The Request for Continued Examination, filed November 24, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2626 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of D'Agostini :
Application No. 10/205,809 :
Filing Date: July 26, 2002 :
Attorney Docket No. 02140-P0004A GSW/DWA :

Decision on Petition

This is a decision on the petition filed December 24, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request under 37 CFR 1.181 should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a Notice of Allowance and Notice of Allowability on August 6, 2008.

The Notice of Allowance required the submission of the issue fee and publication fee. The Notice of Allowance set forth a three-month time period for reply. Petitioner does not contend the Notice of Allowance contained any errors.

The first page of the Notice of Allowability stated, "The allowed claim(s) is/are 1 and 2." An Examiner's Amendment was attached to the Notice of Allowability. The second sentence on the first page of the Examiner's Amendment stated, "Claims 1 and 2 are currently pending and have been examined." The last sentence on the second page of the Examiner's Amendment stated, "Claims 1-5 are allowed." A sentence on the third page of the Examiner's Amendment stated, "Claims 2-5 are allowed, as their parent claim has been deemed allowable."

The Office did not receive the issue fee or publication fee. As a result, the application became abandoned on November 7, 2008.

A Notice of Abandonment was mailed December 2, 2008.

Petitioner asserts the holding of abandonment should be withdrawn because the Office has never issued a "proper" Notice of Allowance. Petitioner asserts the "Notice of Allowance erroneously indicates that claims 1-2 are allowed."

35 U.S.C. 151 states,

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

The Office notified petitioner the application was allowed. The Office notified petitioner of a sum that must be paid for the issue fee. Petitioner did not submit the issue fee listed on the Notice of Allowance. Therefore, pursuant to 35 U.S.C. 151, the application is abandoned.

In this case, the Notice of Allowance did *not* contain any errors. However, even if the Notice of Allowance had indicated Claims 1 and 2 were allowed without making any reference to Claims 3 to 5, the application would still be abandoned.

35 U.S.C. 151 does not distinguish between "correct" Notices and "incorrect" Notices. Even if an incorrect Notice of Allowance is mailed, a reply must be filed. An applicant may not choose not to file any reply to a Notice or Office action based on a belief the Notice or Office action contains an error. For example, pursuant to 35 U.S.C. 133, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned.

Petitioner failed to file any paper in reply to the Notice of Allowance or the Notice of Allowability. The petition states Attorney David Aldrich promptly contacted the examiner by telephone on August 11, 2008, in order to obtain a corrected Notice of Allowance. However, in view of 37 CFR 1.2 which requires business with the Office to be transacted in writing, the telephone conversation cannot be considered an official reply to either Notice.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137.

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by the required reply ($755 for the issue fee and $300 for the publication fee), the required petition fee ($270 for a small entity), and a showing that the entire delay in the submission of the issue fee and publication fee was unavoidable. Petitioner should feel free to contact the undersigned at the phone number listed in this decision to discuss the showing that would be necessary in order to establish unavoidable delay under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply ($755 for the issue fee and $300 for the publication fee), the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a PDF "fillable" form for a petition under 37 CFR 1.137(a) can be found at: http://www.uspto.gov/web/forms/sb0061.pdf.

A copy of a PDF "fillable" form for a petition under 37 CFR 1.137(b) can be found at: http://www.uspto.gov/web/forms/sb0061.pdf.

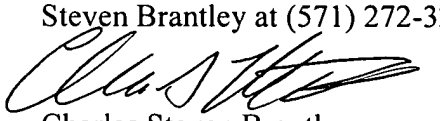
Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

In re Application of

Giovanni D'Agostini

Application No. 10/205,809

Filed: July 26, 2002

Attorney Docket No. **02140-P0004A**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 9, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $755.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 6, 2008. 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 November 7, 2008. A Notice of Abandonment was mailed December 2, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on June 9, 2009.

The application is being forwarded to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KATTEN MUCHIN ROSENMAN LLP / ARBITRON INC.
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

Applicant	: John W. Hebeler JR.	: DECISION ON REQUEST FOR
Patent Number	: 7627872	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/205,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **949** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN W. OLIVO.JR.
WARD & OLIVO
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Perry Scherer et al. :
Application No. 10/205,817 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. PT-038 :

This is a decision on the petition filed March 11, 2005, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on August 15, 2005, for failure to file a timely response to a Restriction Requirement mailed July 14, 2004, which set a 30 day shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed March 4, 2005.

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

The response to the Restriction Requirement filed March 11, 2005 will be referred to Technology Center 2144 for further processing.

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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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Paper No. 7

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of
Murray, Eric
Application No. 10/205,824
Filed: July 26, 2002
Attorney Docket No. QST-076/2428P

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 16, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 8, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2183 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Ryan Bruneau
976 Wisteria Terrace
Sunnyvale, CA 94086

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JAN 27 2003

OFFICE OF PETITIONS

In re Application of
Richard et al.
Application No. 10/205,833
Filed: 26 July, 2002
For: SYSTEM AND METHOD FOR OPTICAL MULTIPLEXING AND/OR DEMULTIPLEXING

Dear Mr. Bruneau:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

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

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

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Paper No. 5

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

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JAN 27 2003

OFFICE OF PETITIONS

In re Application of
Richard, Chamness, Moore,
Benerofe, Clark, and Bruneau
Application No. 10/205,833
Filed: 26 July, 2002
Atty's Docket No. 2200CIP6

: DECISION GRANTING PETITION
: AND
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(A)
:

This is a decision on the petition filed on 21 October, 2002, which is treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application, including one (1) sheet of drawings containing Figure 1A, be accorded a filing date of 26 July, 2002. This is also a decision on the petition filed on 27 December, 2002, under 37 CFR 1.47(a).[1]

The petitions are **granted**.

PETITION UNDER 37 CFR 1.53(e)

On 26 July, 2002, the application was filed.

On 5 September, 2002, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, requiring substitute drawings in compliance with 37 CFR 1.84 and stating, that the application had been accorded a filing date of 26 July, 2002, but that Figure 1A described in the specification appeared to have been omitted

[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.

In response, on 21 October, 2002, the present petition was filed, accompanied by a substitute specification including 84 sheets of drawings, one of which contains Figure 1A. Petitioners assert that Figure 1A was filed with the other application papers on 26 July, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 26 July, 2002, with the above-identified application number, and identifies the application by attorney docket number, first named inventor's name, and invention title, and acknowledges receipt, *inter alia*, of 84 sheets of drawings. Petitioners request that the application, including the drawing containing Figure 1A, be accorded a filing date of 26 July, 2002.

A review of the record reveals that 83 sheets of drawings, are located among the application papers deposited on 26 July, 2002. However, the evidence is convincing that the application papers deposited on 26 July, 2002, included 84 sheets of drawings and that the sheet of drawings containing Figure 1A was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 1A as described in the specification, is entitled to a filing date of 26 July, 2002.

The Office is construing the copy of the one (1) sheet of drawings containing Figure 1A as a copy of Figure 1A as originally filed. Petitioners **must** inform the Office if this is an incorrect interpretation.

The "Notice" mailed on 5 September, 2002, is vacated to the extent that it states that Figure 1A appeared to have been omitted.

In view of the above, the petition under 37 CFR 1.53 is granted. The $130.00 petition fee paid on 21 October, 2002, will be refunded to counsel's deposit account, No. 02-2120.

The application will be processed, using the application papers filed on 26 July, 2002, and the copy of Figure 1A of the drawings supplied on 21 October, 2002.

PETITION UNDER 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor, Ryan D. Bruneau, has refused to join in the filing of the above-identified application after having been mailed a copy of the

application papers. Specifically, the declaration of petitioners' registered patent attorney, Michele Liu, establishes that the inventor was sent a copy of the application papers but failed to execute and return the declaration naming him as a joint inventor along with Jenkin A. Richard, Eric V. Chamness, David F. Moore, Steven J. Benerofe, and Don A. Clark.

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 in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The declaration is defective in that it contains alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing must be submitted when required by the examiner.

Receipt is acknowledged of the substitute drawings filed on 21 October, 2002. The substitute drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 26 July, 2002, using the application papers filed on 26 July, 2002, and the one (1) sheet of drawing containing Figure 1A, supplied on 21 October, 2002, and for an indication on the bib-data sheet that 84 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. [illegible]

Paper No. 5

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Jenkin A. Richard, Eric V. :
Chamness, David F. Moore, :
Steven J. Benenate, Don A. :
Clark, and Ryan D. Bruneau :
Application No. 10/205,535 : DECISION ACCORDING STATUS
Filed: July 26, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2200CIP2

This is in response to the petition under 37 CFR 1.47, filed December 27, 2002 (Certificate of Mailing dated December 19, 2002), which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on July 26, 2002, with a declaration lacking the signature of joint inventor Ryan D. Bruneau. Accordingly, on September 6, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a two month extension of time.

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

With the instant petition, attorney Michele Liu included a copy of a cover letter dated November 19, 2002, transmitting the application papers and declaration and assignment documents to the last known address of joint inventor Bruneau. According to Liu, no executed declaration from Bruneau has been received.

The declaration filed July 26, 2002, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C.

RYAN BRUNEAU
776 WISTERIA TERRACE
SUNNYVALE CA 94086

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Jenkin A. Pichard, Eric V. :
Chamness, David F. Moore, :
Steven C. Benerofe, Don A. : LETTER
Clark, and Ryan D. Bruneau :
Application No. 10/205,837
Filed: July 26, 2002
Title: SYSTEM AND METHOD FOR OPTICAL MULTIPLEXING AND/OR DEMULTIPLEXING

Dear Mr. Bruneau:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Michele Liu
Sawyer Law Group LLP
P O Box 51418
Palo Alto CA 94303
(650)493-4540

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

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P O BOX 51418
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of
Jenkin A. Richard, Eric V. Chamness, David F. Moore, Steven J. Benerofe, Don A. Clark, and Ryan D. Bruneau
Application No. 10/205,837
Filed: July 26, 2002
Attorney Docket No. 2200CIP1

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed December 27, 2002 (Certificate of Mailing dated December 19, 2002), which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on July 26, 2002, without a declaration lacking the signature of joint inventor Ryan D. Bruneau. Accordingly, on September 5, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a two month extension of time.

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

With the instant petition, attorney Michele Liu included a copy of a cover letter dated November 19, 2002, transmitting the application papers and declaration and assignment documents to the last known address of joint inventor Bruneau. According to Liu, no executed declaration from Bruneau has been received.

The declaration filed July 26, 2002, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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RYAN BRUNEAU
976 WISTERIA TERRACE
SUNNYVALE CA 94086

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Jenkin A. Richard, Eric V. Chamness, David F. Moore, Steven J. Benerofe, Don A. Clark, and Ryan D. Bruneau
Application No. 10/205,837
Filed: July 26, 2002
Title: SYSTEM AND METHOD FOR OPTICAL MULTIPLEXING AND/OR DEMULTIPLEXING

LETTER

Dear Mr. Bruneau:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Michele Liu
Sawyer Law Group LLP
P O Box 51418
Palo Alto CA 94303
(650)493-4540

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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

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FEB 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,078,169	:	
Ashby et al.	:	
Issue Date: July 18, 2006	:	DECISION ON
Application No. 10/205,841	:	REQUEST FOR RECONSIDERATION
Filed: July 26, 2002	:	OF
Atty Docket No. 9301-187	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed September 12, 2006. Patentees request that the patent term adjustment shown on the face of the patent be corrected from three hundred fifty-seven (357) days to three hundred seventy-six (376) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On July 18, 2006, the above-identified application matured into U.S. Patent No. 7,078,169. The instant request for reconsideration filed September 12, 2006, 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 357 days. The PTA of 376 days was reduced by 19 days pursuant to 37 CFR § 1.704(c)(10) for the submission of an amendment under 1.312 after the mailing of the notice of allowance.

Patentees assert that there was no "failure to engage in reasonable efforts" to conclude prosecution since errors made by the Examiner necessitated the filing of the Amendment Under 37 C.F.R. 1.312. Patentees argue that this was a submission of "a response to the examiner's reasons for allowance or a request to correct an error or omission in the 'Notice of Allowance' or 'Notice of Allowability' and thus, is not a failure to engage.

Patentees' arguments have been considered, but not found persuasive. It is undisputed that an amendment under 1.312 was filed on April 6, 2006 after the mailing of a Notice of Allowance. This is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed 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 amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See

> *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

As described above, the Director has set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. The paper filed April 6, 2006, is not a Comments on Statements of Reasons for Allowance or merely a request to correct an error or omission in the Notice of Allowance or Notice of Allowability. Rather, the paper was filed as and is properly considered as an amendment under 1.312. The fact that the examiner stated in his amendment that applicants may respond with the filing of an amendment under 1.312 does not remove the paper from consideration as one filed subject to 37 CFR 1.704(c)(10). Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Thus, filing of the paper after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, it is concluded that the patent properly issued with a revised Patent Term Adjustment of three hundred fifty-seven (357) days.

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

TESTA, HURWITZ & THEBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

Paper No. 4
MAIL

OCT 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Edward H. Hallman et al. :

Application No. 10/205,844 :
Filed: July 26, 2002 :
For: FAIR MULTIPLEXING OF TRANSPORT SIGNALS ACROSS A PACKET-ORIENTED NETWORK :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on September 07, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: Steve Watts
2021 Terri Creek Drive
Fuquay Varina, NC 27526

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHROEDER & SIEGFRIED
15600 WAYZATA BOULEVARD, SUITE 200
WAYZATA MN 55391

MAILED

MAY 18 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
STRUYK, DAVID A. :
Serial No.: 10/205,864 :
Filed: July 24, 2002 : DECISION ON PETITION
For: **SEQUENTIAL INVERSE ENCODING APPARATUS AND METHOD FOR PROVIDING CONFIDENTIAL VIEWING OF A FUNDAMENTAL DISPLAY IMAGE** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, July 24, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figure 4, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

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

MOSER IP LAW GROUP / APPLIED MATERIALS, INC.
1030 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

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NOV 15 2007

OFFICE OF PETITIONS

In re Application of	:	
HORIOKA et al.	:	
Application No. 10/205,870	:	DECISION ON PETITION
Filed: July 26, 2002	:	UNDER 37 CFR 1.55(c)
Atty Docket No. 6348P01/ETCH/SILICON	:	

This is a decision on the petition under 37 CFR 1.55(c), filed May 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Japanese Application Nos. 2001-335364 and 2001-206905, filed October 31, 2001 and July 6, 2001 respectively.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with above item (2). In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2)

requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

Additionally, an incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(a)-(d) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(a)-(d) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the petition. All improper incorporation by reference statement should also be removed from the first line of the specification. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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 Denise Pothier at (571) 272-4787.

Frances Hicks
Lead Paralegal
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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2ND FLOOR
SHREWSBURY NJ 07702

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OFFICE OF PETITIONS

In re Application of :
HORIOKA et al. :
Application No. 10/205,870 : DECISION ON PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.55(c)
Atty Docket No. 6348P01/ETCH/SILICON :

This is a decision on a renewed petition under 37 CFR 1.55(c), filed December 17, 2007 and supplemented on January 8, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application Nos. 2001-335364 and 2001-206905, filed October 31, 2001 and July 6, 2001, respectively.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign applications, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on July 26, 2002, which is after November 29, 2000 and is a continuation-in-part of intermediate Application No. 10/146,443, filed on May 14, 2002, which is within 12 months of October 31, 2001 and July 6, 2001 (the filing dates of the foreign applications to which benefit is now being claimed). On January 8, 2008, a supplemental Application Data Sheet was received, which identifies the foreign applications for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition filed May 22, 2007. Lastly, petitioner has provided a proper statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) 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 this application is entitled to the benefit of the earlier filing date(s).

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

A second surcharge was charged with the renewed petition filed on December 17, 2007. The amount ($1410) will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 1763 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/205,870	07/26/2002	1763	1580	APPM6348P1/ETCH/SILICON	48	7

CONFIRMATION NO. 1970

CORRECTED FILING RECEIPT

55649
MOSER IP LAW GROUP / APPLIED MATERIALS, INC.
1030 BROAD STREET
2ND FLOOR
SHREWSBURY, NJ 07702

Date Mailed: 01/09/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Keiji Horioka, Chiba-shi, JAPAN;
Chun Yan, San Jose, CA;
Taeho Shin, San Jose, CA;
Roger Alan Lindley, Santa Clara, CA;
Panyin Hughes, Gaithersburg, MD;
Douglas H. Burns, Saratoga, CA;
Evans Y. Lee, Milpitas, CA;
Bryan Y. Pu, San Jose, CA;
Qi Li, San Jose, CA;
Mahmoud Dahimene, Sunnyvale, CA;

Assignment For Published Patent Application

Applied Materials, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 55649

Domestic Priority data as claimed by applicant

This application is a CIP of 10/146,443 05/14/2002 PAT 7,316,199

Foreign Applications

JAPAN 2001-335364 10/31/2001
JAPAN 2001-206905 07/06/2001

If Required, Foreign Filing License Granted: 09/06/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/205,870**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHOD AND APPARATUS FOR PROVIDING UNIFORM PLASMA IN A MAGNETIC FIELD ENHANCED PLASMA REACTOR

Preliminary Class

156

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 14

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

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FEB 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Duane Friesen et al :
Application No. 10/205,877 :
Filed: July 24, 2002 :
Attorney Docket No. 499.070US2 :

This is a decision on the petition, filed February 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 3, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitons, the file will be forwarded to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
JONES, et al. :
Application No. 10/205,918 : DECISION GRANTING PETITION
Filed: July 25, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-3036.2US (96-0974.02 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 11, 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 April 9, 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 2125 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

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

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
JONES, et al. :
Application No. 10/205,918 : DECISION GRANTING PETITION
Filed: July 25, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-3036.2US(96-0972.02) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 6, 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 2125 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

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

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Paper No. 4

MAIL

OCT 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THOMAS A. TURANO
TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MASSACHUSETTS 02110

In re Application of
Hallman et al.

Application No. 10/205,934
Filed: July 26, 2002
For: COMMUNICATING SYNCHRONOUS TDM SIGNALS ACROSS A PACKET-ORIENTED NETWORK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on September 7, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: Steve Watts
2021 Terri Creek Drive
Fuquay Varina, NC 27526

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
Myung-Jin Kim et al :
Application No. 10/205,954 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. Q81509 :

This is a decision on the petition, filed May 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 December 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1654 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of
Pavel V. Korchagin et al.
Application No. 10/205,981
Filed: July 26, 2002
Attorney Docket No. 20020330.ORI
Title: HIGH-RISE FIRE-FIGHTING, RESCUE AND CONSTRUCTION EQUIPMENT

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is a decision on the petition under 37 C.F.R. §1.182, filed July 14, 2005, to change the name of one of one of the joint inventors. Petitioner has requested that the inventor formerly known as "Vladimir Ivonovitch Maloletkov" be listed as "Vladimir Ivonovitch Yudakov." Petitioner has submitted the petition fee of $400, a certified copy of the court order showing this change of name, and a translation of the same. However, Petitioner has not submitted an affidavit which has been signed with both names.

As such, the petition under 37 C.F.R. §1.182 is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.182." This is not a final agency action within the meaning of 5 U.S.C §704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. The renewed petition should contain an affidavit which has been signed with both names.

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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.

The Power of Attorney and Correspondence Address has been entered and made of record.

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
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Paper No. None

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

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of
Pavel V. Korchagin et al.
Application No. 10/205,981
Filed: July 26, 2002
Attorney Docket No. 20020330.ORI
Title: HIGH-RISE FIRE-FIGHTING, RESCUE AND CONSTRUCTION EQUIPMENT

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.182

This is a decision on the renewed petition under 37 C.F.R. §1.182, filed November 3, 2005, to change the name of one of one of the joint inventors. Petitioner has requested that the inventor formerly known as "Vladimir Ivonovitch Maloletkov" be listed as "Vladimir Ivonovitch Yudakov." Petitioner has submitted the petition fee of $400, a certified copy of the court order showing this change of name, and a translation of the same.

The original petition was submitted on July 14, 2005, and was dismissed via the mailing of a decision on September 30, 2005. With this renewed petition, Petitioner has submitted an argument and it has been deemed to be persuasive.

As such, the renewed petition under 37 C.F.R. §1.182 is **GRANTED**. The inventor is now listed as:

Vladimir Ivonovitch Yudakov

A corrected filing receipt has been enclosed.

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.

Enclosure: Corrected Filing Receipt

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
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SEP 1 5 2004

OFFICE OF PETITIONS

KEATING BENNETT LLP
SUITE 312
10400 EATON PLACE
FAIRFAX VA 22030

In re Application of :
Kenji Sakaguchi et al :
Application No. 10/205,986 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 36856.774 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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JJGJR.: 06-05

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Sosa, et al.	:	
Application No. 10/206,006	:	DECISION ON PETITION
Filing Date: 26 July, 2002	:	
Attorney Docket No. LEXSA P-19CIP	:	

This is a decision on the petition filed on 29 December, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 10 February, 2004, with reply due absent an extension of time on or before Monday, 10 May, 2004;

- the application went abandoned after midnight 10 May, 2004;

- the Office mailed the Notice of Abandonment on 16 September, 2004;
- the instant petition (with fee) was filed on 29 December, 2004, and included therewith a reply in the form of an amendment.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

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

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

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

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

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

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

Petitioner has satisfied the petition, fee, reply and statement/showing requirements of the regulation.

CONCLUSION

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Linda Ruth Bartram	: DECISION ON REQUEST FOR
Patent Number	: 7613772	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/206,009	: 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 **804** 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
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PR PERTY
AND DIRECTOR F THE UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

SEP 17 2003

#13

Joseph R. Snyder
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re application of :
Tatsuki Shinoda et al : Decision on Petition
Serial No.: 10/206,010 :
Filed: May 8, 2002 :
Attorney Docket No.: 019941-0013110US

This is in response to applicants' Petition to Make Special under 37 CFR 1.102(d) filed August 18, 2003.

Applicants' statement has been considered and requirements of MPEP 708.02(VIII) have been met. Accordingly, the petition is granted.

The prosecution of the instant application will proceed according to the procedure set forth in MPEP 708.02, VIII. There is no provision for "withdrawal" from this special status.

Petition Granted.

Cecilia Tsang
Special Program Examiner, TC1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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APR 25 2003

OFFICE OF PETITIONS

William H. Eilberg
420 Old York Road
Jenkintown, PA 19046

In re Application of
Glascock et al.
Application No. 10/206,012
Filed: July 25, 2002
Attorney Docket No. 569-01
Title of Invention: PHASED ARRAY ULTRASONIC NDT SYSTEM FOR TUBES AND PIPES

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed February 27, 2003 (certificate of mailing February 11, 2003), under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

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

The above-identified application was filed on July 25, 2002, without a fully executed oath or declaration. Accordingly, on September 13, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply of November 13, 2002.

In reply, applicant filed a petition, petition fee and the surcharge for late filing of the declaration. To make the reply timely, a three month extension of time was also submitted. In support of the petition, applicants submitted the declaration of Ahmad Chahbaz, VP Technology of R/D Tech inc., a copy of the assignment document, correspondence in French and a oath or declaration.

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

The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor

refused to sign the declaration after having been presented with the application papers. The Declaration of Ahmad Chahbaz only indicates a declaration was mailed to inventor Laurent Butin. The declaration of Chahbaz does not indicate the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventor. See MPEP 409.03(d). Furthermore the documents submitted with the petition to establish inventor Butin has refused to execute the documents are in French. A review of the petition shows English translation of the documents has not been provided. Thus, the exhibits provided do not aid rule 47 applicant in establishing the alleged refusal. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

Paper No. 8

William H. Eilberg
420 Old York Road
Jenkintown, PA 19046

In re Application of
David Glascock, Noel Dube, Vincent Pasquer and Laurent Butin
Application No. 10/206,012
Filed: July 25, 2002
Attorney Docket Number: 569-01
Title of Invention: PHASED ARRAY ULTRASONIC NDT SYSTEM FOR TUBES AND PIPES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 30, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Ahmad Chahbaz attest a copy of the application was sent to non-signing inventor's last known address via Federal Express. The non-signing inventor's failure to respond to the application papers sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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EDWARD D. MANZO
COOK ALEX MCFARRON MANZO
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/206,018 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 0553-0211.01

This is a decision on the petition, filed April 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 (703) 306-5684.

The file will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No. 11

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR NY 10510

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AUG 14 2003

OFFICE OF PETITIONS

In re Application of :
Chouly, et al. :
Application No. 10/206,028 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. FR 010109 :

This is a decision on the "Request to Accord the Patent Application a Filing Date of July 26, 2002", filed April 24, 2003 (Certificate of Mailing dated April 21, 2003), which is being treated as a petition under 37 CFR 1.10 to accord the above-identified application a filing date of July 26, 2002.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on July 26, 2002, not July 24, 2002. In support thereof, petitioner has included a copy of an Express Mail mailing label bearing the Express Mail number EV 031697785 US, and dated July 26, 2002.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

> (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 fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(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.

A review of the application file reveals that the application transmittal letter bore Express Mail number EV 031697785 US, and itemized the application.

In view of the above, the application is entitled to a filing date of July 26, 2002.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **July 26, 2002, not July 24, 2002.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100731

DATE : July 31, 2010

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7221391

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/LIN YE/
Supervisory Patent Examiner.Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 081704

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

OCT 1 2004

In re Application of:
ROBERT DAYTON SIGLER et al.
Serial No.: 10/206,067
Filed: July 29, 2002
Attorney Docket No.: **040092-012300US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 06 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

Edward Westin

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

cc: MCDERMOTT, WILL & EMERGY
18191 VON KARMAN, AVENUE, SUITE 400
IRVINE, CA 92612

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KENYON & KENYON LLP
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
David Duffy, Gregory L. Kirk, Stewart :
Campell, Oliver Schueller and Melina Agosto :
Application No. 10/206,074 :
Filed: July 29, 2002 : ON PETITION
Title: PEELABLE AND RESEALABLE :
DEVICES FOR BIOCHEMICAL ASSAYS :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 20, 2006, which has been treated as a petition under 37 CFR 1.183.[1]

The petition is dismissed.

Petitioner 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 1.183," and should only address the deficiencies noted below. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

On March 20, 2006, petitioner filed a petition under 37 CFR 1.48 to add an inventor, however, inventor Gregory A. Kirk refuses to sign or cannot be located to sign the required declaration.

Petitioner has not established that the non-signing inventor refuses to sign the declaration, nor has petitioner shown that the inventor cannot be located.

A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that the inventor refuses to sign the declaration or cannot be located. The statement

[1] Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.

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, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Please note, the petition under 37 CFF 1.48, filed March 20, 2006, shall be held in abeyance until the granting of the instant petition under 37 CFR 1.183.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TERESA A. LAVENUE
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
DAVID DUFFY, GREGORY L. KIRK, :
STEWART CAMPBELL, OLIVIER :
SCHUELLER, MELINA AGOSTO, ENOCH KIM :
Application No. 10/206,074 :
Filed: July 29, 2002
Attorney Docket No. 11641/121

ON PETITION

This is a decision on the RENEWED petition filed July 17, 2006 which is being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of ENOCH KIM, and (2) a request under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed March 20, 2006.

The petitions under 37 CFR 1.183 to waive the provisions of 37 CFR 1.48(a)(3) and 1.64(a) are **DISMISSED as moot** in view of the submission with the renewed petition of an executed declaration in compliance with 37 CFR 1.63(c) of the previous non-signing inventor.

The petition under 37 CFR 1.48(a) is **GRANTED**.

The aforementioned supplemental declaration has been accepted on petition and placed in the filed.

In view of the papers filed on July 17, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of: ENOCH KIM, Boston, Massachusetts.

A corrected filing receipt which includes ENOCH KIM as an inventor accompanies this decision on petition.

Telephone inquiries relating to this decision should be directed to Amelia Au at (571) 272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
DAVID DUFFY, GREGORY L. KIRK, :
STEWART CAMPBELL, OLIVIER : ON PETITION
SCHUELLER, MELINA AGOSTO, ENOCH KIM :
Application No. 10/206,080 :
Filed: July 29, 2002
Attorney Docket No. 11641/122

This is a decision on the petition filed March 20, 2006 which is being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of ENOCH KIM, and (2) a request under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed March 20, 2006.

The petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.48(a)(3) and 1.64(a) are **DISMISSED as moot** in view of the submission on July 11, 2006 of an executed supplemental declaration in compliance with 37 CFR 1.64.

The petition under 37 CFR 1.48(a) is **GRANTED**.

The aforementioned supplemental declaration has been accepted on petition and placed in the filed.

In view of the papers filed on July 11, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of: ENOCH KIM, Boston, Massachusetts.

A corrected filing receipt which includes ENOCH KIM as an inventor accompanies this decision on petition.

Regarding fees, petitioner submitted $200 on March 20, 2006 for the petition being treated under 37 CFR 1.183. The current 37 CFR 1.183 petition fee is $400. Accordingly, petitioner's deposit account will be charged the $200 balance. Petitioner submitted two $130 fees for the 37 CFR 1.48 petition filed on March 20, 2006 and on July 11, 2006. Only one fee is necessary, accordingly, $130 has been credited back to petitioner's deposit account.

Telephone inquiries relating to this decision should be directed to Amelia Au at (571) 272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/206,080	07/29/2002	1744	1342	11641/122	62	43	1

CONFIRMATION NO. 9879

CORRECTED FILING RECEIPT

OC000000021187038

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Date Mailed: 11/09/2006

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)

David Duffy, Cambridge, MA;
Gregory L. Kirk, Winchester, MA;
Stewart Campbell, Framingham, MA;
Olivier Schueller, Somerville, MA;
Melina Agosto, Dorchester, MA;
Enoch Kim, Boston, MA;

Power of Attorney: The patent practitioners associated with Customer Number **23838**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/709,776 11/08/2000 PAT 6,699,665
and claims benefit of 60/307,839 07/27/2001
and claims benefit of 60/323,743 09/21/2001
and claims benefit of 60/357,649 02/20/2002
and claims benefit of 60/366,260 03/22/2002
and claims benefit of 60/375,024 04/25/2002
and claims benefit of 60/380,314 05/15/2002

Foreign Applications

UNITED STATES OF AMERICA PCT/US01/50909 11/07/2001

If Required, Foreign Filing License Granted: 08/29/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/206,080

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Peelable and Resealable Devices for Arraying Materials

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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 : September 18, 2006

TO SPE OF : ART UNIT ~~1651~~ 1657

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/206081 patent No.: 6,967,074

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: _____

RALPH GITOMER
PRIMARY EXAMINER
GROUP 1200

SPE

1657
Art Unit

APPROVED
RG
10/5/07

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 : **6,967,074 B2**

DATED : **November 22, 2005**

INVENTOR(S) : **DUFFY et al.**

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

In the Abstract (57), line 6, change "thc" to --the--.
Col. 6, line 29, change "malehimide" to --maleimide--
Col. 6, line 30, change "malehimide" to --maleimide--
Col. 6, line 31, change "malehimide" to --maleimide--
Col. 20, line 30, change "removale" to --removable--
Col. 26, line 14, change "microliter" to --microtiter--
Col. 30, line 8, change "hexadecanethiold" to --hexadecanethiol--
Col. 35, line 31, change "Micheal" to --Michael--
Col. 44, line 27, change "assymetric" to --asymmetric--
Col. 45, line 34, change "assymteric" to --asymmetric--
Col. 46, line 15, change "nuclcophile" to --nucleophile--
Col. 56, line 52, change "denisty" to --density--
Col. 56, line 53, change "desribed" to --described--
Col. 63, line 63, change "microliter" to --microtiter--
Col. 65, line 5, change "Resononce" to --Resonance--
Col. 68, line 54, change "phospite" to --phosphite--
Col. 70, line 13, change "fulling" to --fully--
Col. 72, line 34, change "The method of claim 1" to --The method of claim 11--

MAILING ADDRESS OF SENDER: Kenyon & Kenyon LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005-1257

PATENT NO. 6,967,074 B2

No. of additional copies

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

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

AUG 30 2006

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Alexandria, VA 22313-1450
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ROBERT W. KOCHER
4828 3RD ST. NORTH
ARLINGTON, VA 22203

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of :
Robert William Kocher :
Application No. 10/206,096 : DECISION ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 25, 2006, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned (571) 272-1642.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received April 25, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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dlw 1-03

Paper No. 9

THOMPSON LAMBERT
SUITE 703D, CRYSTAL PARK TWO
2121 CRYSTAL DRIVE
ARLINGTON VA 22202

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of :
Robert C. Rajewski :
Application No. 10/206,119 : ON PETITION
Filed: 29 July, 2002 :
Attorney Docket No. 004-61 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 14 November, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 26 September, 2003, for failure to timely the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 25 June, 2003, which set a three (3) month period for reply. Notice of Abandonment was mailed on 6 November, 2003.

---

[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 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 application is being forwarded to the Publishing Division for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

THOMPSON LAMBERT
SUITE 703D, CRYSTAL PARK TWO
2121 CRYSTAL DRIVE
ARLINGTON VA 22202

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DEC 19 2003

OFFICE OF PETITIONS

In re Application of
Robert C. Rajewski
Application No. 10/206,119
Filed: July 29, 2002
Attorney Docket No. 004-61

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2003, 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 14, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3749 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 9

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

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Chernoff, et al.
Application No. 10/206,122
Filed: July 26, 2002
Attorney Docket No. GP-301578
For: VEHICLE CHASSIS HAVING SYSTEMS RESPONSIVE TO NON-MECHANICAL CONTROL SIGNALS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 27, 2003 (certificate of mailing date January 22, 2003).

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventor, Tucker J. Johnson, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Eleanor Halik, assistant to the attorney of record, Carol Siino, patent liaison for General Motors Research and Development, and Kathryn A. Marra, attorney of record, establishes that the inventor reviewed the application papers, including the specification, claims and drawings, but constructively refused to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TUCKER J. JOHNSON
2027 LAKE ANGELIS ROAD
LAKE ANGELUS MI 48326

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Chernoff, et al.
Application No. 10/206,122
Filed: July 26, 2002
Attorney Docket No. GP-301578
For: VEHICLE CHASSIS HAVING SYSTEMS RESPONSIVE TO NON-MECHANICAL CONTROL SIGNALS

LETTER

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.

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: 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

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WASHINGTON, D.C. 20231
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Paper No. 6

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of
Daniel F. Moore, John Hughes Jr., Fred Steining, Stuart Richard Serkin, and Timothy Vincent
Application No.10/206,129
Filed: July 25, 2002
Attorney Docket Number: 09857-101001
Title of Invention: SECURITIES PROCESSOR AND A METHOD OF PROCESSING ATTRIBUTABLE INTEREST MESSAGES

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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APR 1 4 2003

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a),filed February 25, 2003 (certificate of mailing date February 21, 2003).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates a copy of the application papers were sent via to the non-signing inventor's last known address. Petitioner has provided evidence that correspondence sent to non-signing inventor was received and non-signing inventor refused to execute the application papers via e-mail, a copy of which has been provided.

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Fred Steining
34 East Court
Derby, Connecticut 06418

In re Application of
Daniel F. Moore, John Hughes Jr., Fred Steining, Stuart Richard Serkin, and Timothy Vincent
Application No.10/206,129
Filed: July 25, 2002
Attorney Docket Number: 09857-101001
Title of Invention: SECURITIES PROCESSOR AND A METHOD OF PROCESSING ATTRIBUTABLE INTEREST MESSAGES

LETTER

COPY MAILED

APR 1 4 2003

OFFICE OF PETITIONS

Dear Mr. Steining:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Brian J Colandreo
FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

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MAR 26 2010

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

In re Application of	:	**DECISION ON PETITION**
Stuart Richard SERKIN et al.	:	**TO WITHDRAW**
Application No. 10/206,148	:	**THE RESTRICTION**
Filed: July 25, 2002	:	**REQUIREMENT**
For: A SECURITY-BASED ORDER PROCESSING TECHNIQUE	:	**UNDER 37 C.F.R. 1.181**

This is in response to the petition filed on June 15, 2009 under 37 C.F.R. 1.181 requesting the withdrawal of the restriction requirement made in the office action dated December 16, 2008.

The petition is **GRANTED**.

On December 16, 2008 a requirement for restriction was mailed between Group I, claims 1-14 drawn to a system in an electronic securities market; Group II, claims 15-28 drawn to a computer implemented method of routing securities orders in an electronic market; Group III, claims 29-32, drawn to a computer program product residing on a computer readable medium; Group IV, Claims 33-45, drawn to a computer implemented method of processing a securities order in an electronic market; Group V, Claims 46-54, drawn to a computer system in an electronic securities market; and Group VI, Claims 55-56, drawn to a method of processing a securities order in an electronic market.

The examiner's reason for restriction between Groups I and II, Groups I and III, Groups I and IV, Groups I and V, and Groups I and VI was that the inventions are related as subcombinations usable together in a single combination. With respect to Groups V-VI, the examiner did not show by example that one of the sub-combinations has utility other than the disclosed combination. Since the examiner did not show distinctness between Groups I and V-VI, this will be considered a single grouping. Furthermore, since the examiner did not show distinctness between Groups II-IV, this will be considered a single grouping. Thus, in essence, the restriction was between the Group A of claims 1-14 and 46-56, and Group B of claims 15-45.

To show distinctness the examiner indicated that the subcombination groups II-IV have separate utility such as routing securities orders, plurality of instructions stored executed by the process, parsing message-based order, memory storing process security order or executing an order.

Applicants' response filed on January 16, 2009 included an election of Group 1 encompassing claims 1-14, and traversed the restriction requirement with the following arguments:

1.) The restriction requirement is procedurally flawed in accordance with 37 CFR 1.142 which states that restriction can be made at any time Before Final Action. Since the restriction requirement was made on December 16, 2008 after a final rejection dated August 8, 2008, the restriction is procedurally improper;

2.) The examiner has failed to show the inventions are patentably distinct by showing for example how the method of claim 15 would be novel and unobvious over the computer program product of claim 29 which encompasses instructions cited in the method of claim 15;

3.) The search for any one group of claims would encompass a search for the subject matter of the other groupings for the remaining claims since the search classification for all groups are in class 705. The examiner cites the inventions each would require a different field of search queries, but provides nothing in the record that the field of search would be different for any of the groupings;

4) The examiner has not shown how the inventions are directed to divergent subject matter;

5) The examiner state that the prior art application to one invention would not likely be applicable to another invention, but provides nothing in the record to suggest that the prior art would be any different for any of the groupings; and

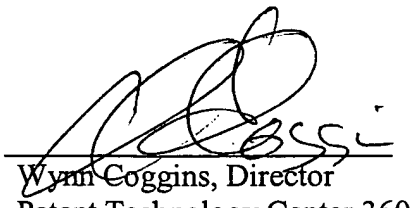
6) the examiner states inventions are likely to raise different non-prior art Issues under 35 USC 101 and/or 35 USC 112, first paragraph. The applicant argues that at least because of all of the claims recite structure, the claims as presented could NOT be subject of valid 35 USC 101 and because they all recite analogous features could NOT be subject to any valid different 112, first paragraph rejections.

The response of the examiner does not address traversal grounds 1-2 and 4-6. With respect to the applicant's third traversal ground, the examiner had not specifically addressed this issue. The examiner responded to the traversal by indicating that in the reasons for restriction that "the examiner disagrees, because the examiner must perform different class/subclass search, separate keyword searches and different database searches".

The examiner has indicated in the restriction requirement that the all claims were classified in class 705. A review of the claims reveals that all claims presented would include the class 705. Since the applicant has elected the systems claims in an electronic securities market, the required search by the examiner would include the entire search area for the claim groups. Therefore, there would be no additional search by the examiner by including the computer implemented method for routing securities orders, the computer product for storing instructions, the computer implemented method of processing securities order, the computer system in an electronic securities market or the method of processing a securities order. For this reason, there appears to be little additional burden on the examiner in searching the process.

As a result, the finality of the Office action mailed on January 22, 2010 is hereby withdrawn and the application is being returned to the examiner for consideration of claims 15-56 on the merits.

Any question concerning this decision should be directed to Supervisory Patent Examiner James Trammell at (571) 272-6712



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

jt/lm: 3/9/2010
LM

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WASHINGTON, D.C. 20231
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MARK D. SARALINO
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

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MAY 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Paul Webster and Phil Endecott :
Application No. 10/206,168 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.47(a)
For: POWER EFFICIENCY IN :
MICROPROCESSING SYSTEMS

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed May 19, 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.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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MARK D. SARALINO
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

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OFFICE OF PETITIONS

In re Application of :
Paul Webster and Phil Endecott :
Application No. 10/206,168 : DECISION REFUSING STATUS
Filed: July 26, 2002 : UNDER 37 CFR 1.47(a)
For: POWER EFFICIENCY IN :
MICROPROCESSING SYSTEMS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 27, 2002 (certificate of mailing date: November 22, 2002).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 26, 2002 without an executed oath or declaration and naming Paul Webster and Phil Endecott as joint inventors.

Accordingly, on August 23, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on November 27, 2002, the instant petition which states non-signing inventor Phil Endecott refuses to sign the declaration and currently cannot be located because he is on sabbatical, copies of correspondence with the nonsigning inventor, combined declaration and power of attorney

signed by Paul Webster, petition fee, surcharge and a request for one month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that Mr. Endecott was only presented with the declaration. Unless Mr. Endecott was presented with a copy of the application papers (specification, claims and drawings), Mr. Endecott could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Applicant also states that Mr. Endecott's whereabouts are unknown because he is on a year long sabbatical. MPEP states, "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." As such, Rule 47 applicant has failed to show that the inventor cannot be reached.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior 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

MCNAIR LAW FIRM, PA
P.O. BOX 10827
GREENVILLE, SC 29603-0827

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of :
Robert B. Collier et al :
Application No. 10/206,169 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 01029.0007U2 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed November 24, 2004. The Office communication set a period for reply of one (1) month from the mail date of the Office communication or the period for response set in the last Office action (whichever is longer). Accordingly, the above-identified application became abandoned on December 25, 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 1712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIM & MCBURNEY
330 UNIVERSITY AVENUE, 6TH FLOOR
TORONTO, ON M5G 1R7
CANADA

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JUN 24 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Leonid Beitelman, et al :
Application No. 10/206,182 :
Filed: August 20, 2002 :
Attorney Docket No. 2127-42 MIS :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on November 12, 2004.

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

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

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

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2004

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: **6,756,673**

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

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

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

Comments:

The amendment to the specification is approved. However the adding of the claim is not approved only due to the fact that the claim should have dependency from claim 24 which is old claim 87 rather than claim 23.

SPE AU2823

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~November 9, 2004~~ May 10, 2006 **Paper No.:** _____

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: **6,756,673**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

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

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

Comments:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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.	:	6,756,673
APPLICATION NO.	:	10/206,205
ISSUE DATE	:	June 29, 2004
INVENTOR(S)	:	Kie Y. Ahn et al.

Approved
WDR

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

Add claim 28 as follows:

28. The coplanar waveguide of claim 24, wherein said copper layer has a thickness of about 100,000 Angstroms to about 200,000 Angstroms.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1
2101 L Street NW
Washington, DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sawyer Law Group LLP
PO Box 51418
Palo Alto, CA 94303

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Matthew William GRAY et al. :
Application No. 10/206,216 : DECISION GRANTING PETITION
Filed: July 29, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 29, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A five-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on January 26, 2004. Although a reply was filed on January 26, 2004, the reply was not deemed by the Examiner to be fully responsive. (See Office communication mailed July 13, 2004) Accordingly, by operation of law, the above-identified application became abandoned on January 30, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 29, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3641 for appropriate action.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED A. STADNICKI
ANTONELLI TERRY STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of :
Peter Moenickheim et al :
Application No. 10/206,239 : DECISION ON PETITION
Filed: July 29, 2002 : TO WITHDRAW
Attorney Docket No. 1158.41764X00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and others has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

cc: Mr. Hans Dreyer
Director, Intellectual Property (Legal Department)
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

MAIL

MAY 10 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Fan

Application No. 10/206,242
Filed: July 26, 2002
For: CARDIOID BEAM WITH A DESIRED AUDIO NULL BASED ACOUSTIC DEVICES, SYSTEMS AND METHODS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on April 09, 2004.

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

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

All attorneys/agents associated with Customer Number 25943 are withdrawn.

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

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

CC: Dashen Fan
14714 SE 49th Street
Bellevue WA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Wajs, Andrew Augustine	:	DECISION ON PETITION
Application No. 10/206,245	:	TO WITHDRAW
Filed: July 26, 2002	:	FROM RECORD
Attorney Docket No. 5683P031	:	

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 12, 2004.

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

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 08791 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

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

ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAPER NO. 3

Stephen M. De Klerk
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026

MAILED

FEB 1 4 2003

Technology Center 2600

In re Application of
Sheldon Breiner
Serial No: 10/206,247
Filed: July 26, 2002
Title: A VEHICULAR SYSTEM HAVING A WARNING SYSTEM TO ALERT MOTORISTS THAT A MOBILE PHONE IS IN USE

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R § 1.102, filed July 26, 2002, 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 M.P.E.P. § 708.02, Section IV: Applicant's Age.

A grantable petition under 37 C.F.R § 1.102, and in accordance with M.P.E.P. § 708.02, IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a verified statement by applicant stating that he/she is sixty five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder, SPRE
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

KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE CA 95110

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MAR 2 9 2006

OFFICE OF PETITIONS

In re Application of :
Bin Hua Tan et al :
Application No. 10/206,248 : DECISION ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 12533/48 :

This is a decision on the petition, filed October 18, 2004, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office Action of December 24, 2003, which set a three (3) month shortened statutory period for reply. A reply was due on or before March 24, 2004.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 29, 2004 of, *inter alia,* an amendment and response. A copy of the previously submitted reply accompanies the petition.

A thorough review of the file record shows a response filed on March 29, 2004 (containing a certificate of mailing date of March 24, 2004) has been received by the USPTO. Accordingly, it is concluded that a response to the Office Action mailed December 24, 2004 was timely received in the USPTO.

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

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2653 for appropriate action in the normal course of business on the reply filed on March 29, 2004.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD, 7TH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 08 2007

OFFICE OF PETITIONS

In re Application of
Gerard Johan Dekker
Application No. 10/206,255
Filed: July 26, 2002
Attorney Docket No. 2069.032US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 12, 2004.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Blakely, Sokoloff, Taylor & Zafman LLP has been revoked by the assignee of the patent application on December 14, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There is an outstanding Office action mailed February 27, 2007 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ANDRE L. MARAIS
SCHWEGMAN, LUNDGERG,
WOESSNER & KLUTH, P.A.
1600 TFC TOWER,
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
JU, et al.	:	
Application No. 10/206,263	:	DECISION ON PETITION
Filed: July 23, 2002	:	TO WITHDRAW
Attorney Docket No. 5306P048	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 03, 2006.

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

A review of the file record indicates that the power of attorney to BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to PatriciaVolpe at (571) 272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: CSA LLP
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CAMORIANO & ASSOCIATES
8225 SHELBYVILLE ROAD
LOUISVILLE KY 40222

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Oliphant et al. :
Application No. 10/206,277 : DECISION ON PETITION
Filed: July 27, 2002 :
Attorney Docket No. NEW.118 :

This is a decision on the petition under 37 CFR 1.137(f), filed October 5, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 25, 2003. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications eighteen months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within forty-five days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of April 27, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3632.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 16 2003

OFFICE OF PETITIONS

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of :
Richmann, et al. :
In re Application No. 10/206,316 :
Filed: July 25, 2002 :
Atty. Dkt. No.: 09857-087001 :
For: ORDER BOOK PROCESS AND METHOD :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 25, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Fred Stiening 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

FRED STIENING
34 EAST COURT
DERBY, CT 06484

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APR 16 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Richmann, et al.
In re Application No. 10/206,316
Filed: July 25, 2002
Atty. Dkt. No.: 09857-087001
For: ORDER BOOK PROCESS AND METHOD

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/08

TO SPE OF : ART UNIT 1651 Ford, Allison

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/206340 Patent No.: 7169577

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

_____
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: _____

_____

_____

_____

_____

_____ 1651
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/10

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10206345 Patent No.: 7611899

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[redacted]

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Jill Warden/ 1797

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PAGE 2/3 * RCVD AT 2/25/2010 6:26:12 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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United States Patent and Trademark Office
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NIXON PEABODY LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: Robert C. Whitson	: DECISION ON REQUEST FOR
Patent Number	: 7611899	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/206,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **814** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007NER

In re Application of	:	
David M. Goldenberg	:	
Serial No.: 10/206,361	:	WITHDRAWAL OF ATTORNEY
Filed: July 29, 2002	:	
Attorney Docket No.: 018733-0823	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

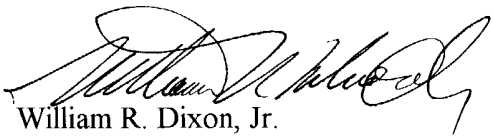
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



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

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HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K STREET,NW
SUITE 300
WASHINGTON DC 20006

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Goldenberg :
Application No. 10/206,361 : DECISION ON PETITION
Filed: Julr 29, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 018733-0823 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 15, 2003,, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly includes, in a priority claim, an

application having a subsequent filing date(U.S. application for reissue No. 10/463,772 filed June 6, 2003). It is further noted that USPTO priority records will not accept insertion of a reference to a subsequently filed application in claim for priority, as such is a contradiction in terms.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting mention of the subsequently filed reissue application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further fees are required. The priority claim is otherwise acceptable as drafted.

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:

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121

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LAURENCE A WEINBERGER, ESQ.
429 EXTON COMMONS
EXTON, PA 19341

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NOV 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Stephan Reiling :
Application No. 10/206,387 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 3017-60 :

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

The application became abandoned for failure to respond to the non-final Office action mailed February 1, 2007. A Notice of Abandonment was mailed on August 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 an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1631, 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

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Paper No. 7

JUL 10 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of:
Khoo et al.
Application No. 10/206,393
Filed: July 26, 2002
For: METHOD AND SYSTEM FOR PROVIDING A CUSTOMIZED MEDIA LIST

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 5, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

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

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Federico Renteria et al :
Application No. 10/206,411 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. H0002592 :

This is a decision on the petition, filed October 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

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

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

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Paper No. 5

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

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Eric R. Sjoberg	:	DECISION GRANTING PETITION
Application No. 10/206,425	:	AND WITHDRAWING THE
Filed: July 25, 2002	:	HOLDING OF ABANDONMENT
Attorney Docket No. 019957-013113US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 8, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the Notice to File Missing Parts mailed August 26, 2002. This Office action set an extendable period for reply of two (2) months. No reply having been received, the application became abandoned on October 27, 2002. A Notice of Abandonment was mailed on January 20, 2004.

Petitioner states that she did not timely receive the Notice of Allowance. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has submitted a satisfactory docket record showing incoming mail for the relevant period, stated that the Notice to File Missing Parts was not received, and attested to the fact that he searched his file jacket and docked records.

Accordingly, the holding of abandonment is withdrawn.

The application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] Id.

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Mark B. Johnson et al :
Application No. 10/206,456 : ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. 82,947 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed January 25, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 26, 2006.

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

This matter is being referred to the Publishing Division to be reviewed by the drawing draftperson.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

ROSE T. JAMES
1702 SW 16TH STREET
BOYNTON BEACH, FL 33426-6606

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OCT 21 2004

OFFICE OF PETITIONS

In re Application of :
Rose T. James :
Application No. 10/206,462 : DECISION GRANTING PETITION
Filed: July 29, 2002 : UNDER 37 CFR 1.137(b)
For: PORTABLE ILLUMINATING DEVICE :
FOR INTERIOR AND EXTERIOR USE

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 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 July 14, 2004 as required by the Notice of Allowance and Issue Fee(s) Due mailed April 14, 2004.

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

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

The matter is being referred to Publishing Division.

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

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JUL 26 2004

DOVETAIL TECHNOLOGIES, INC.
387 TECHNOLOGY DRIVE
COLLEGE PARK, MD 20742

In re Application of	:
Floyd Taub et al	:
Serial No.: 10/206,470	: PETITION DECISION
Filed: July 29, 2002	:
Attorney Docket No.: DTI-122	:

This is in response to the petition under 37 CFR 1.144, filed May 10, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on July 29, 2002, and contained claims 1-33. In a first Office action, mailed September 23, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-6, 13 and 16-27, drawn to therapeutical compounds;
Group II – Claims 7-12, 14-15 and 30, drawn to a method of treating viral infections;
Group III – Claim 28, drawn to a method of treating bacterial, fungal, parasitic or prion infections;
Group IV – Claim 29, drawn to a method of treating degenerative disorders;
Group V – Claim 31, drawn to a method of modifying immune response;
Group VI – Claim 31 (sic 32), drawn to a method of modulating addictions to tobacco, alcohol, drugs, etc.; and
Group VII – Claim 33, drawn to a method of modulating compulsive behaviors.

The examiner reasoned that Group I and Groups II-VII were drawn to compounds and methods for their use and that the methods could be practiced with different compounds. The methods were indicated as separate and distinct because they differ with respect to hosts and results and thus involve different issues of patentability. The examiner also required an election of species between compounds from Claims 1-33, which were described as generic claims.

Applicants replied on December 17, 2003, electing Group IV (Claim 29) and a species with traverse, specifically arguing that the requirement was flawed as the examiner had not sustained a burden for restriction since all of the groups were classified in the same class and subclass. The election of species was considered to be flawed for the same reasons.

The examiner mailed a non-Final Office action to applicants on March 15, 2004, acknowledging applicants' election of Group IV and the species elected. The examiner responded to the traversal by maintaining the restriction requirement and indicating that there was no allowable generic or linking claim. The examiner responded to the argument that all inventions are classified in the same class and subclass by stating that the "search ... is not limited to the patent literature." The examiner also stated that 35 U.S.C. 121 does not limit election of species to non-generic claims only. The examiner made the requirement Final. The examiner then rejected claim 29 (all other claims being withdrawn) under 35 U.S.C. 112, first paragraph, as lacking enablement in the specification.

Applicants replied on May 10, 2004 by filing this petition. Applicants filed a full reply to the Office action on June 11, 2004.

DISCUSSION

Applicants argue in the petition that the claims in the application can be divided into two groups, compounds and methods where all of the method claims are directly or indirectly dependent on compound claim 1. Applicants argue again that the examiner has not shown a burden on the Office in the restriction requirement since all Groups are classified in the same class and subclass. Further argued is that the examiner's reasons for restriction, "(1) the process for using the product as claimed can be practiced with another and materially different product or (2) that the product as claimed can be used in a materially different process of using the product" were not properly supported by the examiner. Reason (2) was not relied on by the examiner and reason (1) was justified by the statement that the process could be practiced with other known agents. Applicants argue that only a single inventive concept exists since only a compound and its method of use is being claimed.

Applicants essentially argue that any proper restriction should be between the compound claims and method claims only, and then argue that because the method claims depend from the compound claims there should be no restriction requirement made since there is only one inventive concept. This is not persuasive. While it is agreed that the method of use claims should have been grouped together restriction between method and compound claims remains proper in that they are different categories of invention. However, since the method claims all depend directly or indirectly from the compound claims the examiner should have included a statement with the restriction requirement indicating that if the compound is elected rejoinder of the method claims would be effected upon allowance of the compound claims provided that the method claims include all of the limitations of the compound claims. Such appears to be the situation here since all of the method claims depend from, and thus include all of the limitations of, the compound claims. Such claims would still be required to meet all other provisions of the statute, such as 35 U.S.C. 112, first and second paragraphs.

Applicants' arguments with respect to the election of species are noted. A review of the requirement shows that it was poorly set forth, but achieved its intended purpose. The requirement should have been set forth indicating that due to the number of different compounds encompassed by the claims an election of species from among the identified compounds is

required. As all claims include reference to Claim 1 which sets forth the Markush group of compounds, the requirement was meant to indicate that whatever group was elected, an election of a specific compound was also required. Thus the requirement is not in error.

In view of the above, the restriction requirement is set forth as follows:

Group I – Claims 1-6, 13 and 16-27, drawn to therapeutical compounds; and
Group II – Claims 7-12, 14-15 and 28-33, drawn to methods of treating various diseases and conditions.

An election of species from among the compounds set forth in Claim 1 is required irrespective of which Group is elected. A further election of species within Group II of a specific disease or condition is also required if Group II is elected.

As noted by the examiner the method of treating any of the conditions or diseases of Group II does not require the compounds of claim 1. Further, the compounds of claim 1 could be used for other purposes and in other methods unrelated to those of Group II.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition is **GRANTED** to the extent that the original restriction and election of species requirement are modified as set forth above.

In view of this decision and modification of the requirement set forth above applicants will be given **ONE MONTH** from the mail date of this decision within which to confirm their previous election of (now species) Claim 29 of Group II or make a new election. **No extension of time will be permitted under 37 CFR 1.136.** Failure to reply timely will result in Claim 29 of Group II being considered the elected species within Group II coupled with the previously elected compound species. Election by telephone interview with the examiner is encouraged and would void the requirement for a written reply.

The application will be forwarded to the examiner for further action not inconsistent with this decision following the expiration of the time for reply set forth above. Consideration will also include applicants' arguments filed June 11, 2004..

No fee is required for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 03-3560, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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PAUL M CRAIG JR.
207 QUAINT ACRES DRIVE
SILVER SPRING MD 20904

In re Application of	:
Floyd Taub et al	:
Serial No.: 10/206,470	: PETITION DECISION
Filed: July 29, 2002	:
Attorney Docket No.: DTI-122	:

This is in response to the petition under 37 CFR 1.181, filed October 29, 2004, requesting remailing of a petition decision.

A petition decision responding to a petition under 37 CFR 1.144 was mailed to applicants on July 26, 2004. Because of an incorrect address the decision was returned to the Office several days later and not remailed. Applicants became aware of the decision only after a subsequent Office action issued. The decision, however, offered applicants an opportunity to respond to a modified restriction requirement within a one month time period. Because of Office error applicants were never afforded the opportunity to make such response. In view of the Office error, the decision is being remailed with this decision. All time periods for reply remain as set in the previous petition decision (a copy of which accompanies this decision), but are calculated from the date of mailing of this decision.

The petition is **GRANTED.**

The Office action mailed September 22, 2004, is vacated in view of the above 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 703-308-3824 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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JUL 26 2004

DOVETAIL TECHNOLOGIES, INC.
387 TECHNOLOGY DRIVE
COLLEGE PARK, MD 20742

In re Application of
Floyd Taub et al
Serial No.: 10/206,470
Filed: July 29, 2002
Attorney Docket No.: DTI-122

: PETITION DECISION

This is in response to the petition under 37 CFR 1.144, filed May 10, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on July 29, 2002, and contained claims 1-33. In a first Office action, mailed September 23, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-6, 13 and 16-27, drawn to therapeutical compounds;
Group II – Claims 7-12, 14-15 and 30, drawn to a method of treating viral infections;
Group III – Claim 28, drawn to a method of treating bacterial, fungal, parasitic or prion infections;
Group IV – Claim 29, drawn to a method of treating degenerative disorders;
Group V – Claim 31, drawn to a method of modifying immune response;
Group VI – Claim 31 (sic 32), drawn to a method of modulating addictions to tobacco, alcohol, drugs, etc.; and
Group VII – Claim 33, drawn to a method of modulating compulsive behaviors.

The examiner reasoned that Group I and Groups II-VII were drawn to compounds and methods for their use and that the methods could be practiced with different compounds. The methods were indicated as separate and distinct because they differ with respect to hosts and results and thus involve different issues of patentability. The examiner also required an election of species between compounds from Claims 1-33, which were described as generic claims.

Applicants replied on December 17, 2003, electing Group IV (Claim 29) and a species with traverse, specifically arguing that the requirement was flawed as the examiner had not sustained a burden for restriction since all of the groups were classified in the same class and subclass. The election of species was considered to be flawed for the same reasons.

The examiner mailed a non-Final Office action to applicants on March 15, 2004, acknowledging applicants' election of Group IV and the species elected. The examiner responded to the traversal by maintaining the restriction requirement and indicating that there was no allowable generic or linking claim. The examiner responded to the argument that all inventions are classified in the same class and subclass by stating that the "search ... is not limited to the patent literature." The examiner also stated that 35 U.S.C. 121 does not limit election of species to non-generic claims only. The examiner made the requirement Final. The examiner then rejected claim 29 (all other claims being withdrawn) under 35 U.S.C. 112, first paragraph, as lacking enablement in the specification.

Applicants replied on May 10, 2004 by filing this petition. Applicants filed a full reply to the Office action on June 11, 2004.

DISCUSSION

Applicants argue in the petition that the claims in the application can be divided into two groups, compounds and methods where all of the method claims are directly or indirectly dependent on compound claim 1. Applicants argue again that the examiner has not shown a burden on the Office in the restriction requirement since all Groups are classified in the same class and subclass. Further argued is that the examiner's reasons for restriction, "(1) the process for using the product as claimed can be practiced with another and materially different product or (2) that the product as claimed can be used in a materially different process of using the product" were not properly supported by the examiner. Reason (2) was not relied on by the examiner and reason (1) was justified by the statement that the process could be practiced with other known agents. Applicants argue that only a single inventive concept exists since only a compound and its method of use is being claimed.

Applicants essentially argue that any proper restriction should be between the compound claims and method claims only, and then argue that because the method claims depend from the compound claims there should be no restriction requirement made since there is only one inventive concept. This is not persuasive. While it is agreed that the method of use claims should have been grouped together restriction between method and compound claims remains proper in that they are different categories of invention. However, since the method claims all depend directly or indirectly from the compound claims the examiner should have included a statement with the restriction requirement indicating that if the compound is elected rejoinder of the method claims would be effected upon allowance of the compound claims provided that the method claims include all of the limitations of the compound claims. Such appears to be the situation here since all of the method claims depend from, and thus include all of the limitations of, the compound claims. Such claims would still be required to meet all other provisions of the statute, such as 35 U.S.C. 112, first and second paragraphs.

Applicants' arguments with respect to the election of species are noted. A review of the requirement shows that it was poorly set forth, but achieved its intended purpose. The requirement should have been set forth indicating that due to the number of different compounds encompassed by the claims an election of species from among the identified compounds is

required. As all claims include reference to Claim 1 which sets forth the Markush group of compounds, the requirement was meant to indicate that whatever group was elected, an election of a specific compound was also required. Thus the requirement is not in error.

In view of the above, the restriction requirement is set forth as follows:

Group I – Claims 1-6, 13 and 16-27, drawn to therapeutical compounds; and
Group II – Claims 7-12, 14-15 and 28-33, drawn to methods of treating various diseases and conditions.

An election of species from among the compounds set forth in Claim 1 is required irrespective of which Group is elected. A further election of species within Group II of a specific disease or condition is also required if Group II is elected.

As noted by the examiner the method of treating any of the conditions or diseases of Group II does not require the compounds of claim 1. Further, the compounds of claim 1 could be used for other purposes and in other methods unrelated to those of Group II.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition is **GRANTED** to the extent that the original restriction and election of species requirement are modified as set forth above.

In view of this decision and modification of the requirement set forth above applicants will be given **ONE MONTH** from the mail date of this decision within which to confirm their previous election of (now species) Claim 29 of Group II or make a new election. **No extension of time will be permitted under 37 CFR 1.136.** Failure to reply timely will result in Claim 29 of Group II being considered the elected species within Group II coupled with the previously elected compound species. Election by telephone interview with the examiner is encouraged and would void the requirement for a written reply.

The application will be forwarded to the examiner for further action not inconsistent with this decision following the expiration of the time for reply set forth above. Consideration will also include applicants' arguments filed June 11, 2004..

No fee is required for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 03-3560, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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NOV 15 2004

PAUL M CRAIG JR.
207 QUAINT ACRES DRIVE
SILVER SPRING MD 20904

In re Application of	:
Floyd Taub et al	:
Serial No.: 10/206,470	: PETITION DECISION
Filed: July 29, 2002	:
Attorney Docket No.: DTI-122	:

This is in response to the petition under 37 CFR 1.181, filed October 29, 2004, requesting remailing of a petition decision.

A petition decision responding to a petition under 37 CFR 1.144 was mailed to applicants on July 26, 2004. Because of an incorrect address the decision was returned to the Office several days later and not remailed. Applicants became aware of the decision only after a subsequent Office action issued. The decision, however, offered applicants an opportunity to respond to a modified restriction requirement within a one month time period. Because of Office error applicants were never afforded the opportunity to make such response. In view of the Office error, the decision is being remailed with this decision. All time periods for reply remain as set in the previous petition decision (a copy of which accompanies this decision), but are calculated from the date of mailing of this decision.

The petition is **GRANTED.**

The Office action mailed September 22, 2004, is vacated in view of the above 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, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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JUL 26 2004

DOVETAIL TECHNOLOGIES, INC.
387 TECHNOLOGY DRIVE
COLLEGE PARK, MD 20742

In re Application of
Floyd Taub et al
Serial No.: 10/206,470
Filed: July 29, 2002
Attorney Docket No.: DTI-122

: PETITION DECISION

This is in response to the petition under 37 CFR 1.144, filed May 10, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on July 29, 2002, and contained claims 1-33. In a first Office action, mailed September 23, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-6, 13 and 16-27, drawn to therapeutical compounds;
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Group V – Claim 31, drawn to a method of modifying immune response;
Group VI – Claim 31 (sic 32), drawn to a method of modulating addictions to tobacco, alcohol, drugs, etc.; and
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The examiner reasoned that Group I and Groups II-VII were drawn to compounds and methods for their use and that the methods could be practiced with different compounds. The methods were indicated as separate and distinct because they differ with respect to hosts and results and thus involve different issues of patentability. The examiner also required an election of species between compounds from Claims 1-33, which were described as generic claims.

Applicants replied on December 17, 2003, electing Group IV (Claim 29) and a species with traverse, specifically arguing that the requirement was flawed as the examiner had not sustained a burden for restriction since all of the groups were classified in the same class and subclass. The election of species was considered to be flawed for the same reasons.

The examiner mailed a non-Final Office action to applicants on March 15, 2004, acknowledging applicants' election of Group IV and the species elected. The examiner responded to the traversal by maintaining the restriction requirement and indicating that there was no allowable generic or linking claim. The examiner responded to the argument that all inventions are classified in the same class and subclass by stating that the "search ... is not limited to the patent literature." The examiner also stated that 35 U.S.C. 121 does not limit election of species to non-generic claims only. The examiner made the requirement Final. The examiner then rejected claim 29 (all other claims being withdrawn) under 35 U.S.C. 112, first paragraph, as lacking enablement in the specification.

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Applicants argue in the petition that the claims in the application can be divided into two groups, compounds and methods where all of the method claims are directly or indirectly dependent on compound claim 1. Applicants argue again that the examiner has not shown a burden on the Office in the restriction requirement since all Groups are classified in the same class and subclass. Further argued is that the examiner's reasons for restriction, "(1) the process for using the product as claimed can be practiced with another and materially different product or (2) that the product as claimed can be used in a materially different process of using the product" were not properly supported by the examiner. Reason (2) was not relied on by the examiner and reason (1) was justified by the statement that the process could be practiced with other known agents. Applicants argue that only a single inventive concept exists since only a compound and its method of use is being claimed.

Applicants essentially argue that any proper restriction should be between the compound claims and method claims only, and then argue that because the method claims depend from the compound claims there should be no restriction requirement made since there is only one inventive concept. This is not persuasive. While it is agreed that the method of use claims should have been grouped together restriction between method and compound claims remains proper in that they are different categories of invention. However, since the method claims all depend directly or indirectly from the compound claims the examiner should have included a statement with the restriction requirement indicating that if the compound is elected rejoinder of the method claims would be effected upon allowance of the compound claims provided that the method claims include all of the limitations of the compound claims. Such appears to be the situation here since all of the method claims depend from, and thus include all of the limitations of, the compound claims. Such claims would still be required to meet all other provisions of the statute, such as 35 U.S.C. 112, first and second paragraphs.

Applicants' arguments with respect to the election of species are noted. A review of the requirement shows that it was poorly set forth, but achieved its intended purpose. The requirement should have been set forth indicating that due to the number of different compounds encompassed by the claims an election of species from among the identified compounds is

required. As all claims include reference to Claim 1 which sets forth the Markush group of compounds, the requirement was meant to indicate that whatever group was elected, an election of a specific compound was also required. Thus the requirement is not in error.

In view of the above, the restriction requirement is set forth as follows:

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An election of species from among the compounds set forth in Claim 1 is required irrespective of which Group is elected. A further election of species within Group II of a specific disease or condition is also required if Group II is elected.

As noted by the examiner the method of treating any of the conditions or diseases of Group II does not require the compounds of claim 1. Further, the compounds of claim 1 could be used for other purposes and in other methods unrelated to those of Group II.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition is **GRANTED** to the extent that the original restriction and election of species requirement are modified as set forth above.

In view of this decision and modification of the requirement set forth above applicants will be given **ONE MONTH** from the mail date of this decision within which to confirm their previous election of (now species) Claim 29 of Group II or make a new election. **No extension of time will be permitted under 37 CFR 1.136.** Failure to reply timely will result in Claim 29 of Group II being considered the elected species within Group II coupled with the previously elected compound species. Election by telephone interview with the examiner is encouraged and would void the requirement for a written reply.

The application will be forwarded to the examiner for further action not inconsistent with this decision following the expiration of the time for reply set forth above. Consideration will also include applicants' arguments filed June 11, 2004..

No fee is required for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 03-3560, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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JoAnne M. Denison
Suite 2004
212 W. Washington Blvd
Chicago, IL 60606-3487

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of

Lewand, et al. :

Application No. 10/206,481

: DECISION ON PETITION

Filed: July 26, 2002

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed, November 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 28, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 29, 2005. A Notice of Abandonment was mailed April 28, 2006.

Deposit account 09-0640 will be charged $750.00 for the instant petition fee.

The amendment filed November 22, 2005, is noted.

The application is being forwarded to Technology Center 3700, GAU 3728 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of
Patrick ZUILI, et al.
Application No. 10/206,486
Filed: July 25, 2002
Attorney Docket No. SSL1P005C1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Susan Yee on behalf of all attorneys of record. All attorneys/agents associated been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PATRICK ZUILI**
696 TOWLE WAY, APT. 39
PALO ALTO, CA 94306

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756 – 114TH AVENUE SE, SUITE 110
BELLEVUE, WA 98004

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

W L Gore and Associates Inc
551 Paper Mill Road
P O Box 9206
Newark DE 19714-9206

Dear Applicant:

The Box PGPub replacement drawings for application number 10/206,523 received on 7/31/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

SPE B. Campell

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/206,534

Paper No.: _____

DATE : 5/20/05

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 6803205

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Bruce Campell 1654

SPE **Art Unit**

6.30.

SPE S. Kim

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/206,536

Paper No.: _____

DATE : 5/20/05

TO SPE OF : ART UNIT 1744

6844184

SUBJECT : Request for Certificate of Correction on Patent No.: ~~10/206,536~~

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance — **Certificates of Correction Branch**

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

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

Comments:

No column no for line 57 change; col. 14, Line 52, "Flaurescent" should be not capitalized; col. 30, Line 5, it's "imrnmobilization" being corrected; col. 30, Line 13 change should indicate change to line 14; col. 54, line 19, delete "enclosing."

John Kim — SPE

1744 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,844,184 B2 Page **1** of **2**
DATED : January 18, 2005
INVENTOR(S) : Enoch Kim *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	Line	
No column no.	57	Change "**The invention relates to devices, devices for arraying** " to --**The invention relates to devices for arraying**--.
1	52	Change "**inflamation**" to --**inflammation**--.
2	30	Change "**inflamation**" to --**inflammation**--.
6	32	Change "**is**" to --**are**--.
8	15	Change "**is**" to --**are**--.
14	52	Change "~~**Flouresecent**~~" (flourescent → fluorescent) to --~~**Fluorescent**~~--.
17	1	Change "**illustrates**" to --**illustrate**--.
17	14	Change "**overlayed**" to --**overlaid**--
17	55	Change "**famesyl**" to --**farnesyl**--
18	13	Change "**at a such slower rate as**" to --**at a slower rate such as**--
18	30	Change "**a assay**" to --**an assay**--
20	35	Change "**aplurality**" to --**a plurality**--
30	5	Change "~~**immmobilization**~~" (immmobilization → immobilization) to --**immobilization**--
30	13 → 14	Change "**self-assebbled**" to --**self-assembled**--
36	37	Change "**flourescent**" to --**fluorescent**--
36	50	Change "**inflamation**" to --**inflammation**--
36	51	Change "**an**" to --**and**--
36	60	Change "**fibrobsis**" to --**fibrosis**--
38	53	Change "**wether**" to --**whether**--
42	29	Change "**flurther**" to --**further**--
50	47	Change "**Famesyl**" to --**Farnesyl**—

51	45	Change "**effect**" to --**affect**--
51	34	Change "**Becton Dickinsion's**" to --**Becton Dickinson's**--
54	19	Change "...**wherein at least one cap for ~~enclosing~~**" to -- ...**wherein the device includes at least one cap for ~~enclosing~~**...--

MAILING ADDRESS OF SENDER:
Teresa A. Lavenue
KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, DC 20005

Patent No.: 6,844,184 B2

SPE S. Kim

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/206,536

Paper No.: _____

DATE : 9/13/05

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6844184

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Change to Column 13, line 14 has already been corrected in the certification of correction dated August 23, 2005 (8/22/05 in EDAN).

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

1744
SPE **Art Unit**

5/17/06

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	6,844,184 B2	Page 1 of 1
DATED	:	January 18, 2005	
INVENTOR(S)	:	Enoch Kim *et al.*	

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

In the Abstract (57), first sentence, change:
"The invention relates to devices, devices for arraying " to --The invention relates to devices for arraying--.

Column	Line	
14	52	Change **"flourescent"** to **--fluorescent--**.
30	5	Change **"imrnmobilization"** to **--immobilization--**
~~30~~	~~14~~	~~Change "self assebbled" to self assembled~~
54	19	Change **"wherein"** to **--further comprising--**

MAILING ADDRESS OF SENDER:
Teresa A. Lavenue
KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, DC 20005

Patent No.: 6,844,184 B2

AUG 1 7 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

Jurgen Vollrath
588 Sutter Street #531
San Francisco, CA 94102

JAN 12 2006

In re Application of:
Khusrow Kiani
Serial No.: 10/206,541
Filed: July 26, 2002
Attorney Docket No.: **P05235**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed June 09, 2004, under 37 C.F.R. § 1.137. The communication has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on January 21, 2004. A Notice of Abandonment was mailed on May 27, 2004.

Petitioner asserts that the Notice of Allowance mailed on January 21, 2004, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notice of Allowance was not received. Included with the statement are with copies of the docket records where the Notice of Allowance would have been entered were also included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is accompanied by a showing that establishes non-receipt of the Notice of Allowance mailed January 21, 2004. As such, the petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

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

James K. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

COPY MAILED

JUN 03 2008

OFFICE OF PETITIONS

In re Patent No. 6,838,516 :
Issue Date: January 4, 2005 :
Application No. 10/206,543 : NOTICE
Filed: July 26, 2002 :
Attorney Docket No. U 014143-2 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLENN C. BROWN
777 NW WALL STREET, #308
BEND, OREGON 97701

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Kelly Stewart Ausland et al :
Application No. 10/206,552 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 7900-13 :

This is a decision on the petition, filed May 5, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed October 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 9, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Effective December 8, 2004, the Issue Fee (Small Entity) increased to $700. Petitioner submitted $685 by check on May 5, 2005, which leaves a balance of $15. The petition to revive can not be granted until the $15 balance has been received.

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(703) 872-9306 ATTN: Office of Petitions

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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GLENN BROWN, P.C.
777 N.W. WALL STREET, SUITE 308
BEND, OREGON 97701

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Kelly Stewart Ausland et al :
Application No. 10/206,552 : ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 7900-13 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 3611 for further processing.

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

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APR 13 2007

OFFICE OF PETITIONS

Y. Rocky Tsao
Fish & Richardson, PC
225 Franklin Street
Boston, MA 02110

In re Application of :

Tai-Jay Chang :
Application No. 10/206,566 : DECISION ON PETITION
Filed: July 25, 2002 : TO WITHDRAW
Attorney Docket No. 14321-003001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 Y Rocky Tsao on behalf of all attorneys of record with the firm of Fish & Richardson, PC. All attorneys/agents associated with this firm have been withdrawn.

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

Accordingly, all correspondence will be mailed to the sole inventor Tai-Jay Chang. A courtesy copy of this decision will also be mailed to the address noted in the petition.

A non-final rejection was mailed on March 29, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Tai-Jay Chang
No. 201, Sec. 2
ShihPai Road
Taipei, TAIWAN, R.O.C.

cc: Tai-Jay Chang
Targetgen, Inc.
15F-1, No. 159, Sec. 1, Ji-Long Road
Taipei, 110, TAIWAN

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/206,566	07/25/2002	Tai-Jay Chang	14321-003001

CONFIRMATION NO. 2288

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000023322378

Date Mailed: 04/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2007.

- 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.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

COPY MAILED

SEP 16 2003

OFFICE OF PETITIONS

Applicant: Vuarier et al.
Appl. No.: 10/206,569
Filing Date: July 29, 2002
Title: COMPOSITION FOR THE OXIDATION DYEING OF KERATIN FIBRES, COMPRISING AT LEAST ONE FATTY ALCOHOL CHOSEN FROM MONO- AND POLYGLYCEROLATED FATTY ALCOHOLS AND A PARTICULAR POLYOL
Attorney Docket No.: 05725.1100-00
Pub. No.: US 2003/0074747 A1
Pub. Date: April 24, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 24, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the chemical formula in paragraph [0208] as "R_{34}– CONHC H_2C H_2– N(R_{35})(R_{36})(C $H_2$$COO^-$)" is misspelled as "$R_{34}$– CONHC H_2C H_2– N(R_{35})(R_{36})(C $H_2$$COO^{-1}$)" and because in paragraph [0209] "R_{34} denotes" is misspelled as "R_{34}denotes".

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 typographical errors identified by applicant are Office mistakes, but they are not a material mistake as required by 37 CFR 1.221(b). The first error is not a material error because the printed formula is clearly a typographical error, which is clearly understandable from reading the sentence and/or paragraph in which the term is used, as the terms are not read in a vacuum. The common names and several patent numbers for the chemical formula are listed in the same paragraph. With respect to the second error, it is clearly a minor typographical error. The errors are minor typographical errors, which are clearly understandable from reading the specification and claims, as words are not read in a vacuum. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication, or determine the scope of the provisional rights that an applicant

[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

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

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

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1751 to await further examination in due course.

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

Mark 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

Paper No. 5

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Aditya Bhasin et al.
Application No. 10/206,592
Filed: July 25, 2002
Attorney Docket No. 3399P091

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f), filed May 14, 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 Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on December 31, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on December 11, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not

regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $1300 is being credited to Deposit Account No. 02-2666 as authorized.

This application is being forwarded to Technology Center AU 2155 for examination in due course.

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

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

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 7

ROY, KIESEL, KEEGAN & DENICOLAR
2355 DRUSILLA LANE
BATON ROUGE, LA 70809

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NOV 15 2004

OFFICE OF PETITIONS

In re Application of :
Samuel E. Barger :
Application No. 10/206,611 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. 10498/001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed November 14, 2003. Accordingly, this application became abandoned on February 15, 2004. A Notice of Abandonment was mailed on July 2, 2004.

Please note, 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.

Furthermore, 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.

As a one time courtesy, this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The file is being forwarded to Technology Center 3700 for review of the amendment, filed October 18, 2004.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Xu et al.
Application No. 10/206,613
Filed: July 26, 2002
Attorney Docket No. 02307O-119510US

This is a decision on the petition filed March 17, 2003, to accord the above-identified application a filing date of July 26, 2002, instead of July 24, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> 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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other 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.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of July 26, 2002.

A petition under 37 CFR 1.10 does not require a petition fee. Therefore, the $130.00 submitted with the petition is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of July 26, 2002.

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

Charles Steven Brantley
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

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of :
Yukio Moriya et al :
Application No. 10/206,614 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MM4547 :

This is a decision on the petition, filed May 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed on May 21, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\206614.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Nandan P. Koppiker et al :
Application No. 10/206,615 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. PC10332ARTB :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of prior-filed nonprovisional Application No. 09/692,781.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed nonprovisional applications.

The instant pending nonprovisional application was filed on July 26, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration and transmittal letter.

The current procedure where a claim for priority under 37 CFR 1.78(a)(2)(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)(2)(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)(3).[1] In the instant case, the Office noted the claim for priority of the nonprovisional application in the declaration and transmittal letter.

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.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing. Thereafter, the application will be forwarded to Technology Center AU 1614 for examination in due course and for consideration by the examiner of the claim for priority.

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

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Jenkin A. Richard, Eric V. :
Chamness, David F. Moore, :
Steven J. Benerofe, Don A. :
Clark, and Ryan D. Bruneau :
Application No. 10/206,625 : DECISION ACCORDING STATUS
Filed: July 26, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2200CIP4

This is in response to the petition under 37 CFR 1.47, filed December 27, 2002 (Certificate of Mailing dated December 19, 2002), which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on July 26, 2002, with a declaration lacking the signature of joint inventor Ryan D. Bruneau. Accordingly, on August 28, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a two month extension of time.

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

With the instant petition, attorney Michele Liu included a copy of a cover letter dated November 19, 2002, transmitting the application papers and declaration and assignment documents to the last known address of joint inventor Bruneau. According to Liu, no executed declaration from Bruneau has been received.

The declaration filed July 26, 2002, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to Technology Center 2600, Group Art Unit 2661 for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Washington, D.C. 20231
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RYAN BRUNEAU
976 WISTERIA TERRACE
SUNNYVALE CA 94086

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Jenkin A. Richard, Eric V. :
Chamness, David F. Moore, :
Steven J. Benerofe, Don A. : LETTER
Clark, and Ryan D. Bruneau :
Application No. 10/206,625
Filed: July 26, 2002
Title: SYSTEM AND METHOD FOR OPTICAL MULTIPLEXING AND/OR DEMULTIPLEXING

Dear Mr. Bruneau:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Michele Liu
Sawyer Law Group LLP
P O Box 51418
Palo Alto CA 94303
(650)493-4540

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6883275
Issue Date: April 26,2005
Application No. 10206628
Filed: July 29,2002
Attorney Docket No. PAT 563-2

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

This is a decision on the electronic petition, filed June 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 16,2009 . 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.

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)
6883275	2005-04-26	10206628	2002-07-29	BAE 3051

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Arlir M. Amado/	Date (YYYY-MM-DD)	2009-06-16
Name	Arlir M. Amado	Registration Number	51399

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Kent A. Herink
Davis, Brown, Koehn, Shors & Roberts, P.C.
Suite 2500
666 Walnut Street
Des Moines, IA 50309-3993

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JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of Johnson, et al. Application No. 10/206,633 Filed: July 26, 2002 For: SOLUTIONS OF CAROTENOIDS FOR USE IN FOODS AND PERSONAL CARE PRODUCTS	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2003, to revive the above-identified application.

The petition is hereby **GRANTED**.

The application became abandoned October 27, 2002 for failure to timely file a complete reply to the Notice to File Missing Parts of Nonprovisional Application mailed August 26, 2002. The Notice set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

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

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MAR 17 2009

OFFICE OF PETITIONS

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

In re Patent No. 6,874,069
Issue Date: March 29, 2005
Application No. 10/206,635
Filed: July 26, 2002
Attorney Docket No. 2102397-992270

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA North America, LLC
225 Reinekers Lane, Suite 400
Alexandria, VA 22314

Attachment(s)

PTO/SB/47 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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"FEE ADDRESS" INDICATION FORM

Address to:
Mail Stop M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

- OR -

Fax to:
571-273-6500

INSTRUCTIONS: The issue fee must have been paid for application(s) listed on this form. In addition, only an address represented by a Customer Number can be established as the fee address for maintenance fee purposes (hereafter, fee address). A fee address should be established when correspondence related to maintenance fees should be mailed to a different address than the correspondence address for the application. **When to check the first box below**: If you have a Customer Number to represent the fee address. **When to check the second box below**: If you have no Customer Number representing the desired fee address, in which case a completed Request for Customer Number (PTO/SB/125) must be attached to this form. For more information on Customer Numbers, see the Manual of Patent Examining Procedure (MPEP) § 403.

For the following listed application(s), please recognize as the "Fee Address" under the provisions of 37 CFR 1.363 the address associated with:

☐ Customer Number: _____

OR

☐ The attached Request for Customer Number (PTO/SB/125) form.

PATENT NUMBER (if known)	APPLICATION NUMBER

Completed by (check one):

☐ Applicant/Inventor _____ Signature

☐ Attorney or Agent of record _____ (Reg. No.) _____ Typed or printed name

☐ Assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) _____ Requester's telephone number

☐ Assignee recorded at Reel _____ Frame _____ _____ Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more that one signature is required, see below*.

☐ * **Total of _____ forms are submitted.**

This collection of information is required by 37 CFR 1.363. 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 5 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 COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Mail Stop M Correspondence, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/125A (11-08)
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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
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Request for Customer Number

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

To the Commissioner for Patents
Please assign a Customer Number to the Address indicated below.

Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

Please associate the following practitioner registration number(s) with the Customer Number assigned to the Address cited above.

☐ Additional practitioner registration numbers are listed on supplemental sheet(s) attached hereto.

Request Submitted by:

Firm Name (if applicable)			
Signature			
Name of person submitting request		Date	
Registration Number, if applicable		Telephone Number	

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop CN, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

PTO/SB/125B (11-08)
Approved for use through 11/30/2011. 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 Customer Number

Practitioner Registration Number Supplemental Sheet

Page of Pages

Please associate the following practitioner registration number(s) with the Customer Number assigned to the Address cited on Request for Customer Number form attached.

Firm Name

Date

☐ Additional supplemental sheets(s) attached hereto

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop CN, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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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.

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Paper No. 7

JOHN R. HOFFMAN
616 W. 13TH STREET
P.O. BOX 191
JASPER, IN 47547

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FEB 17 2004

OFFICE OF PETITIONS

In re Application of :
John R. Stenftenagel et al :
Application No. 10/206,639 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 26, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 27, 2002.

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

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

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

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

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PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN, NJ 07960-7397

Mail Date: 04/20/2010

Applicant	: Hugh Edward Montgomery	: DECISION ON REQUEST FOR
Patent Number	: 7071183	: RECALCULATION of PATENT
Issue Date	: 07/04/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/206,659	: OF WYETH
Filed	: 07/26/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of :
CHIANG et al. :
Application No. 10/206,662 : ON APPLICATION FOR
Filed: July 26, 2002 : PATENT TERM ADJUSTMENT
Atty. Docket No. 12903.123US1 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed July 1, 2009, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred nine (509) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: Yet Ming Chiang	: DECISION ON REQUEST FOR
Patent Number	: 7579112	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/206,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,579,112	:	DECISION ON REQUEST FOR
CHIANG et al.	:	RECONSIDERATION OF
Issue Date: August 25, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/206,662	:	NOTICE OF INTENT TO ISSUE
Filed: July 26, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. 112903.123US1	:	

This is a decision on the petition filed on October 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred nine (509) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred eight (508) 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 27, 2005, and ends on February 8, 2007, the day before the RCE was filed, and is 562 (not 563) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 508, not 509 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office will charge patentee's Deposit Account the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the request for reconsideration of patent term adjustment. No additional fees are 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 **five hundred eight (508) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,579,112 B2
DATED: Aug. 25, 2009 **DRAFT**
INVENTOR(S): CHIANG 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 63 days

Delete the phrase "by 63 days" and insert – by 508 days--

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Paper No. 5

Robert E. Krebs
Thelen Reid & Priest LLP
P. O. Box 640640
San Jose, CA 95164-0640

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Joseph P. R. Tosey :
Application No. 10/206,681 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 034300-362 :

This is a decision on the petition, filed March 11, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 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.

Petitioner argues that advice given to him from the Office was incorrect, for which he should be entitled to a refund of a portion or the entire petition fee. While it is unfortunate that the advice given by the Office was incorrect, petitioner should not rely on oral advice from USTPO employees. See MPEP 711.03(c). In view thereof, petitioner will not receive a refund of the petition fee tendered.

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

This application is being forwarded to Technology Center Art Unit 2100 for examination in due course.

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

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MCDERMOTT, WILL & EMERY
2049 CENTURY PARK EAST, SUITE 3400
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Patent No. 6,886,692	:	
Issued: 3 May, 2005	:	
Application No. 10/206,735	:	ON PETITION
Filed: 26 July, 2002	:	
Atty Dckt No. 64706-020	:	

This is a decision on the petition filed on 17 November, 2005, styled as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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Paper 15

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON DC 20005-3500

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Munehiro Azami
Application No. 10/206,802
Filed: July 29, 2002
Attorney Docket Number: 12732-111001/US5879

This is a decision on the petition under 37 CFR 1.137(a),[1] filed September 2, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned on March 31, 2004 after the applicant failed to timely pay the issue fee due in response to the Notice of Allowance mailed December 30, 2003. Accordingly, a Notice of Abandonment was mailed July 22, 2004.

Petitioner claims non-receipt of the Notice of Allowance and seeks to have the Abandonment of the application withdrawn at the same time the petition is filed under 37 CFR 1.137(a).

In view of the non-receipt claim and the request for a withdrawal of abandonment, this petition is dismissed and the application will be forwarded to Technology Center 2819. Petitioner should re-file the request under 37 CFR 1.181 and follow the requirements for filing under that regulation.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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Paper No. 17

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

JAN 2 7 2005

In re Application of
AZAMI
Application No. 10/206,802
Filed: July 29, 2002
Attorney Reference No. 12732-111001 / US5879

DECISION ON PETITION

This is a decision on the petition filed September 28, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

A Notice of Allowance and Fee(s) Due was mailed on December 30, 2003, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due was not received (see also Petition under 37 CFR § 1.137(a) filed September 2, 2004). The petition is accompanied by a copy of the docket record where the non-received Notice of Allowance and Fee(s) Due Office action would have been entered.

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

Applicant has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due Office action was not received. Further, applicant has provided a copy of the docket record where the non-received Notice of Allowance and Fee(s) Due Office action would have been received had it been received and docketed.

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

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

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

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of :
Munehiro Azami :
Application No. 10/206,802 : DECISION GRANTING PETITION
Filed: July 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-111001/US5879 :

This is a decision on the petition, filed August 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 11

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

COPY MAILED

APR 15 2004

OFFICE OF PETITIONS

In re Application of :
Motasim Sirhan et al :
Application No. 10/206,803 : NOTICE
Filed: July 25, 2002 :
Attorney Docket No. 020460-001660US :

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 3738.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

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

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MAY 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Motasim Sirhan et al :
Application No. 10/206,807 : NOTICE
Filed: July 25, 2002 :
Attorney Docket No. 020460-001640US :

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

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

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

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

This file is being forwarded to Technology Center AU 3738.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 14 2004

OFFICE OF PETITIONS

In re Application of :
Motasim Sirhan et al :
Application No. 10/206,853 : NOTICE
Filed: July 25, 2002 :
Attorney Docket No. 020460-001650US :

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

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

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

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

This matter is being referred to Technology Center AU 3738.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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JUL 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Tomoaki UMEDA et al. :
Application No. 10/206,863 : DECISION ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. Q69304 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 07, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 07, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 08, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and publication fee of $300.00; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. BOX 1450
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MAY 31 2005

Technology Center 2100

David A. Struyk
3921 Tramore Lane
Deephaven, MN 55391

In re Application of: David A. Struyk Application No. 10/205,866 Filed: July 24, 2002 For: IMAGE ALTERING APPARATUS AND METHOD FOR PROVIDING CONFIDENTIAL VIEWING OF A FUNDAMENTAL DISPLAY IMAGE	**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed July 24, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as figure 4, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The patent or application file contains at least one drawing executed in color. Copies of this patent ***or patent application publication*** *with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed without the required (complete) specification statement, as noted above. In addition, at the time of this decision, the indicated sets of color drawings, have not reached the file.

The petition is **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.

James R. Matthews

For Brian L. Johnson
~~Supervisory~~ Patent Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Qin Zhang, et al. :
Application No. 10/206,870 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 23001-06785 :

This is a decision on the petition filed January 27, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on August 9, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by 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 for the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with the 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

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

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing and for mailing a corrected filing receipt, which sets forth the projected publication date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111-3492

COPY MAILED

DEC 2 6 2006

OFFICE OF PETITIONS

In re Application of :
PERKES, et al. :
Application No. 10/206,874 : DECISION ON PETITION
Filed: July 26, 2002 : TO WITHDRAW
Attorney Docket No. 01234.50020 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2006.

The request is **APPROVED**.

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

The request was signed by Cameron K. Kerrigan on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ronald M. Perkes at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RONALD M. PERKES**
1113 NEL MARIN KEYA BOULEVARD
NOVATO, CA 949949

cc: **SQUIRE, SANDERS & DEMPSEY L.L.P**
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/206,874	07/26/2002	Ronald M. Perkes	01234.50020

CONFIRMATION NO. 1478

OC000000021721739

30256
SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

Date Mailed: 12/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 6

IRA S. MATSIL
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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JUL 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Wang, et al. :
Application No. 10/206,875 : ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. 2001-P-19583-US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 22, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 23, 2002.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
MAZZOCCHI, et al. :
Application No. 10/206,884 : DECISION ON PETITION
Filed: July 29, 2007 : TO WITHDRAW
Attorney Docket No. **P-70039-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007.

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

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG & WOESSNER, PA** 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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

David P.Cooper
Kolish Hartwell, P.C.
520 S.W. Yawhill Street, Suite 200
Portland, OR 23581

MAILED

MAR 08 2005

Director's Office
Group 3700

In re Application of	:	
RIXEN	:	
Serial No.10/206,890	:	Decision on
Filed July 26, 2002	:	Petition
For: Heating System for Potable Water and Relatively Small Areas	:	

A Notice of Abandonment for the above-identified application was mailed August 26, 2004. Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on September 7, 2004. In the petition applicant provides a copy of the amendment filed July 26, 2004 and a copy of a request for a three-month extension of time filed July 26, 2004. An Office Action was mailed by the USPTO on January 1, 2004. A response to that Office Action was received on August 3, 2004 along with the request for the extension of time. Both documents had a certificate of mailing or transmission dated and properly executed on July 26, 2004.

In view of the above, the Notice of Abandonment mailed August 26, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 16 2008

OFFICE OF PETITIONS

In re Application of :
Richmann et al. :
Application No. 10/206892 :
Filing or 371(c) Date: 07/25/2002 : ON PETITION
Attorney Docket Number: 09857-103001 :

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), and on the request for a refund, filed July 23, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 10, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 11, 2007. A Notice of Abandonment was mailed January 9, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Applicant filed an extension of time fee on October 16, 2007; however, no reply was filed and the application subsequently became abandoned. The extension of time fee has been refunded to Applicant's deposit account.

The application is being referred to Technology Center Art Unit 3694 for processing of the Amendment/reply filed with the petition in due course.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Carolyn A. Nalbandian, Daniel F. :
Moore and Fred Stiening : DECISION GRANTING PETITION
Application No. 10/206,894 : UNDER 37 CFR 1.47(a)
Filed: July 25, 2002 :
Title: ORDER DELIVERY IN A SECURE MARKET

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 5, 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.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The required petition fee of $130.00 has been charged to Applicant's deposit account no. 06-1050.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior 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
WASHINGTON, D.C. 20231
www.uspto.gov

FRED STIENING
34 EAST COURT
DERBY, CT 06484

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of
Carolyn A. Nalbandian, Daniel F. Moore and Fred Stiening
Application No. 10/206,894
Filed: July 25, 2002
Title: ORDER DELIVERY IN A SECURE MARKET

Dear FRED STIENING:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Ehl T for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

FISH & RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

January 2005

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

JAN 12 2005

In re Application of:
Kota Arimoto
Serial No.: 10/206,981
Filed: July 30, 2002
Attorney Docket No.: 03500.016578

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on November 5, 2003. There is no fee for this petition.

The petition is **GRANTED**.

This application became abandoned for failure to pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. The Notice of Allowability and the Notice of Allowance and Fee(s) Due (hereinafter "Notices") were both mailed on May 1, 2003. A Notice of Abandonment was mailed on September 15, 2003.

Petitioner asserts that the Notice of Allowance was never received by the applicant. Although petitioner provides the required showing under MPEP § 711.03(c) to establish nonreceipt of an Office action, the showing is not necessary since a review of the application file indicates that the "Notices" mailed on May 1, 2003 were returned unmailed to the U.S. Patent and Trademark Office.

Accordingly, the Notice of Abandonment mailed September 15, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

This application is being forwarded to the Technical Support Staff of Technology Center 2800 for the mailing of new "Notices." The mailing of a new Notice of Allowance and Fee(s) Due will set a new non-extendable due date for the payment of the Issue Fee.

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

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

COPY MAILED
FEB 05 2010

In re Application of :
SINDHU et al. :
Application No. 10/207,008 : ON APPLICATION FOR
Filed: 07/30/2002 : PATENT TERM ADJUSTMENT
Atty. Docket No. 0023-0061 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed December 10, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 2,214 days, not 1,107 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this decision should be directed to 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

Eckhard H. Kuesters
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

NOV 24 2004

In re Application of:
Toshiyuki Umeda et al.
Serial Number: 10/207,024
Filed: 07/30/02
For: Frequency Converter having Low Supply Voltage

: DECISION ON PETITION
: TO CONSIDER INFORMATION
: DISCLOSURE STATEMENT

This is a decision on the petition filed on January 26, 2004 under 37 CFR 1.181 requesting the consideration of the references cited in an Information Disclosure Statement filed on August 26, 2003.

The Petition is ***granted***.

No such Information Disclosure Statement (IDS) is found in the subject application. However, the Petitioner's statement of filing and the attached copy of a date-stamped filing receipt are sufficient evidence to establish that Applicant did file an IDS. Therefore, the Application will be forwarded to the Examiner of record for consideration of the attached copy of the IDS.

James L. Dwyer, Director
Technology Center 2800
Physics, Optical Systems and Components and Electrical Engineering

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Rolf van Haag :
Application No. 10/207,034 : DECISION ON PETITIONS
Filed: June 10, 2003 :
Patent No. 7,182,721 :
Issued: February 27, 2007

This is a decision on the petition to expunge under 37 CFR 1.59, filed June 1, 2007.

The petition to expunge is **DISMISSED**.

As set forth in MPEP 724.05, a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) **the Office can effect such return prior to the issuance of any patent on the application in issue;**

(B) it is stated 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;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Here, as the instant application issued into patent no. 7,182,721 prior to the filing of the petition, the petition must be dismissed.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington DC 20037-1420

MAILED

APR 01 2003

Technology Center 2600

In re Application of :
John Morrish et al :
Application No. 10/207,048 : DECISION ON REQUEST TO
Filed: July 30, 2002 : WITHDRAW AS ATTORNEY
For: **DIGITAL AUDIO RECEIVER** :

This is a decision on the request to withdraw as attorney/agent of record filed on March 13, 2003.

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

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

All attorneys and agents in this application are removed from record.

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

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

cc: John Morrish
Global Radio, S.A.
33 Parc d'Activite Syrdall
L-5363 Munsbach
Luxembourg, BELGIUM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JOHN MORRISH
GLOBAL RADIO, SA
33 PARC D'ACTIVITE SYRDALL
L-5365 MUNSBACH
LUXEMBOURG BE BELGIUM

MAILED

APR 0 9 2003

Technology Center 2600

In re Application of :
Morrish et al. :
Application No. 10/207,049 : DECISION ON REQUEST TO
Filed: July 30, 2002 : WITHDRAW AS ATTORNEY
For: TIME DIVERSITY TECHNIQUES :
:

This is a decision on the request to withdraw as attorney/agent of record filed on March 13, 2003.

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

Petitioner has not met item (2) above. The undersigned, John W. Ryan, is no longer of record, having been previously withdrawn.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

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

cc: CAROL CLAYTON
WILMER, CUTLER, & PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

JOHN W. RYAN
WILMER CUTLER & PICKERING
2445 M Street, NW
Washington DC 20037-1420

MAILED

MAR 2 4 2003

Technology Center 2600

In re Application of :
John Morrish et al :
Application No. 10/207,049 : DECISION ON REQUEST TO
Filed: July 10, 2002 : WITHDRAW AS ATTORNEY
For: **TIME DIVERSITY TECHNIQUES** :
:

This is a decision on the request to withdraw as attorney/agent of record filed on February 27, 2003.

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

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

John W. Ryan is removed from record. All other attorneys and agents in this application remain active.

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

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

cc: John Morrish
Global Radio, S. A.
33 Parc d'Activite Syrdall
L-5365 Munsbach
Luxembourg, LEBGIUM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

AUG 02 2005

Director's Office
Group 3700

In re Application of	:	
KITAMURA ET AL.	:	
Serial No.10/207,052	:	Decision on
Filed July 30, 2002	:	Petition
For: Surface Package Type Semiconductor Package and Method for Producing Semiconductor Memory	:	

A Notice of Abandonment for the above-identified application was mailed February 8, 2005. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on April 7, 2005. In the petition applicant indicates that an amendment was properly filed with an extension of time on January 24, 2005. As proof of such timely filing Applicant has provided a copy of a post card receipt date stamped January 24, 2005 by USPTO. Further, a check of the file indicates that an amendment and extension of time were entered into the file having a date of January 24, 2005.

In view of the above, the Notice of Abandonment mailed February 8, 2005 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

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JAN 17 2006

OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE
1900 K STREET, NW
WASHINGTON DC 20006

In re Application of :
Joon Ha Park :
Application No. 10/207,064 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 8733.623.00 :

This is a decision on the petition, filed January 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 3, 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 2673 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : January 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Joon Ha Park
Application No. :10/207,064
Filed :July 30, 2002

The above-identified application has been assigned Patent No. 6,989,846 and an issue date of January 24, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 24, 2006:

"All reference to Patent No. 6,989,846 to Joon Ha Park of Republic of Korea for METHOD AND APPARATUS FOR DRIVING LIQUID CRYSTAL DISPLAY PANEL appearing in the Official Gazette of January 24, 2006, should be deleted since no patent was granted."

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Hideyuki Furukawa :
Application No. 10/207,079 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 1450.1020 :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed July 9, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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

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APR 20 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Andrew C. Evans :
Application No. 10/207,094 :
Filed: July 30, 2002 :
Attorney Docket No. 1875.2380001 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2133 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
Andrew C. Evans :
Application No. 10/207,094 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No.: 1875.2380001 :

This is a decision on the petition, filed March 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 15, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2133 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Patent of :
Hisada et al. :
Patent No. 6,902,018 :
Issue Date: June 7, 2005 :
Application No. 10/207,101 :
Filing Date: July 30, 2002 :
Attorney Docket No. 113128 :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.183, filed August 18, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

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

The request under 37 CFR 3.81 is **granted.**

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. The petition under 37 CFR 1.183 is unnecessary and dismissed as moot.

A request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

Since the petition under 37 CFR 1.183 has been dismissed as moot, only a $130 fee is due rather than $400. The $270 difference in the fee amounts was previously charged to petitioner's deposit account but has since been refunded.

Certificates of Correction Branch will be informed of the instant decisions so that it may issue the requested Certificate of Correction.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-18-05

Paper No.: _____

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction on Patent No.: 6858273

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

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

EVA JAMES

Should Col. 18 and Col. 20 be enter as requested? Thanks

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:

MILTON I. CANO
~~SUPERVISORY PATENT EXAMINER~~
SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

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JAN 2 3 2003

OFFICE OF PETITIONS

In re Application of :
NAOTO BAN :
Application No. 10/207,145 : DECISION GRANTING PETITION
Filed: July 30, 2002 :
Attorney Docket No. 501.40694PX1 :

This is a decision on the petition under 37 CFR 1.53, filed October 25, 2002, requesting that page 33 of the specification be accorded a filing date of July 30, 2002, as part of the original disclosure.

On July 30, 2002, applicant filed the above-identified application. On August 26, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of July 30, 2002, and requiring applicant to submit an executed oath or declaration and a surcharge for its late filing. Additionally, the Notice advised applicant that page 33 of the specification appeared to have been omitted.

In response, on October 25, 2002, applicant filed, inter alia, a copy of page 33 of the specification, the present petition and petition fee. The petition is accompanied by a copy of applicant's postcard receipt acknowledging receipt of a specification, claims and abstract, totaling 38 pages, in the United States Patent and Trademark Office on July 30, 2002. In the present petition, applicant requests that the application, including page 33 of the specification, be accorded a filing date of July 30, 2002.

Upon review of the record, page 33, deposited on July 30, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 30, 2002, included page 33 of the specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 33, was complete on filing and entitled to a filing date of July 30, 2002.

Accordingly, the petition is granted.

The requirement for omitted page 33 of the specification was sent in error and is hereby vacated.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 01-2135, as requested by applicant.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of July 30, 2002, using pages 1-32, 34-37, and the abstract filed on that date and page 33 of the specification filed with the present petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAJ S. DAVE
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVENUE, NW
SUITE 5500
WASHINGTON, DC 20006-1888

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,765,061 :
Issue Date: July 20, 2004 :
Application No. 10/207,158 : NOTICE
Filed: July 30, 2002 :
Attorney Docket No. 495812002100 :

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 file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPVAK MCCLELLAND MAIER & NEUSTADT
FOURTH FLOOR
1735 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of
Takayuki Abe
Application No. 10/207,167
Filed: July 30, 2002
Attorney Docket Number: 226339US2SRD

ON PETITION

This is a decision on the petition filed March 21, 2006, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on July 7, 2005 after the applicant failed to file a timely response to the non-Final Office Action mailed April 6, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner argues that the non-Final Office Action was not received and includes copies of the mail log inclusive of dates April 6, 2005 to May 6, 2005, to establish non-receipt. Petitioner also argues that the non-Final Office Action was mailed to the wrong address.

A review of the file reveals that the non-Final Office Action was mailed to the address of record on April 6, 2005, but was returned by the US Postal Service on April 22, 2005 as undeliverable. The review further reveals that there does not appear to have been a change of address filed prior to the mailing of the non-Final Office Action but that the address found in the petition is different from the address of record. See MPEP sections 601.03 and 711.02(c).

As petitioner has not presented any evidence that the address of record had been changed with the USPTO at the time the non-Final Office Action was mailed, and in the absence of petitioner showing that they acted responsibly with respect to providing the

USPTO with up to date addresses, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

A courtesy copy of this decision is being mailed to the address on the petition but all future communications will be mailed to the address of record until an appropriate change of address has been filed.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]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)).

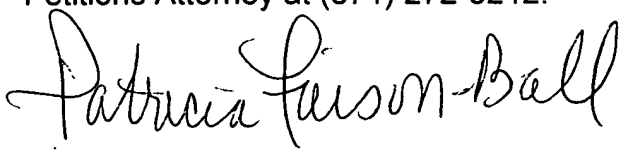
until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
OBLON SPVAK MCCLELLAND MAIER & NEUSTADT
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

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

COPY MAILED
OCT 23 2006
OFFICE OF PETITIONS

In re Application of
Takayuki Abe
Application No. 10/207,167
Filed: July 30, 2002
Attorney Docket Number: 226339US2SRD

ON PETITION

This is a decision on the request for reconsideration filed July 18, 2006, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 7, 2005 after the applicant failed to file a timely response to the non-Final Office Action mailed April 6, 2005. Prior to the mailing of the Notice of Abandonment, a petition which was treated under 37 CFR 1.181 was filed on March 21, 2006, which was dismissed in a decision mailed June 15, 2006 because there did not appear to have been a change of address filed prior to the mailing of the non-Final Office Action.

With the renewed petition, petitioners provide proof that a change of address had been filed prior to the mailing of the non-Final Office Action and that the Office Action was mailed to an incorrect address.

Petitioner points to a December 19, 2002 Request for Customer Number Data Change for Customer No. 22850, to be effective January 6, 2003. Further, a review of the file record reveals a January 6, 2003 communication from the USPTO acknowledging that the instant application was associated with customer number 22850. The file doesn't show however that the address for customer number 22850 was updated effective January 6, 2003 in accordance with the December 19, 2002 request.

In view of the above, the evidence submitted corroborates non-receipt of the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

The file is being forwarded to Technology Center 2825 for the remailing of the non-Final

Office Action originally mailed on April 6, 2005. Telephone inquiries concerning the remailing of the non-Final 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-27-04

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/207176 Patent No.: 7082091

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

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

Please check Inventors

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: _____

SPE

2607
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 04 2007

OFFICE OF PETITIONS

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

In re Application of :
Andrew C. Evans :
Application No. 10/207,196 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 1875.2380005 :

This is a decision on the petition, filed May 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2138 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Andrew C. Evans :
Application No. 10/207,196 : DECISION DISMISSING PETITION
Filed: July 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.2380005 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until after the Office closed. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be faxed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions before 4:00 pm eastern standard time. *See* MPEP § 1308.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE JUL 31

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

JUL 30 2002

OIPE
MAR 14 2003
PATENT & TRADEMARK OFFICE

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

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

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

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

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

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

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

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

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

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

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

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

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

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
	9884981	1765
	9911702	1765
	9921910	1765
	9975930	1765
	10124460	1765
	09273929	1765
	09662390	1765
	9905110	1772
	9621771	1775
	9870830	1775
	9871958	1775
	9901109	1775
	9960402	1775
	09274268	1775
	09465623	1775
	09813779	1775
	9865446	2631
	9930171	2633
	09617640	2633
	9910032	2663
	10152783	2673
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	09607420	2682
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	10141876	2811
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	10150065	2811
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205890US-8737-8737-99	09721566	2811
2061 ssus-8737-s737-ss	09766046	2811
208836US-8737-8737-99	09861636	2811
210044US-8737-8737 99	09884150	2811
210790US.-8737-8737-99	09897965	2811
210260US-8737-8737-99	09900887	2811
211327US-8737-8737-99	09905869	2811
211318US-8737-8737-99	09905935	2811
211467U5-8737-8737-99	09907705	2811
211685US-87378737-99	09908695	2811
211535US-8737-8737-99	09908860	2811
211689US-8737-8737-99	09908886	2811
21158!5US-8737-8737-99	09909936	2811
211891 US-8737-8737-99	09911455	2811
211804US-8737-8737-99	09911456	2811
211642US-8737-8737-99	09911465	2811
211805US-8737-8737-99	09911475	2811
213020US-8737-8737-99	09930247	2811

Docket Number	Application #	Art Unit
214975US-8737-8737-99	09978096	2811
216416 US-8737-8737-99	09994066	2811
217300US-8737-8737-99	10017596	2811
217730US,8737-8737-99	10026446	2811
219105US-8737-8737-99	10062429	2811
220526 US-8737-236694-99	10091452	2811
	10137383	2812
	10150066	2812
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By FAX: (703) 872-9005

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

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

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

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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RECEIVED: 8-5-02
OBLON SPIVAK McCLELLAND MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

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

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PATENT & TRADEMARK OFFICE

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

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The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

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

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

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

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

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

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

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

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

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

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

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

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
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	9884981	1765
	9911702	1765
	9921910	1765
	9975930	1765
	10124460	1765
	09273929	1765
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By FAX: (703) 872-9005

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

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

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

Attachment: TC Assignment Appendix

UNITED STATES 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.

KOUSUKE BAN
3-48-10, HARAJUKU, TOTUKA-KU
YOKOHAMA-CITY
KANAGAWA 24500-63
JAPAN

COPY MAILED

MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Kousuke Ban :
Application No. 10/207,215 :
Filed: July 30, 2002 :
Title: METHOD OF MANUFACTURING SURFACE ORNAMENT PLATE, PRODUCT FOR USE IN SUCH METHOD :

DECISION ON PETITION

This is a decision on the petition to revive - unavoidable, filed March 23, 2004.

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

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

BACKGROUND

The above-identified application became abandoned for failure to file a timely and proper reply to the restriction requirement mailed September 5, 2003. This Office action set a one-month period for reply, with extensions of time obtainable under § 1.136(a). On October 30, 2003, applicant filed a letter requesting clarification. By communication mailed February 17, 2004, applicant was advised that the restriction requirement remained in effect, and that their election should be submitted with the proper extension of time fee. However, the maximum extendable period for reply expired with no reply being received and no extension obtained. Accordingly, the application became abandoned effective October 6, 2003. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

DISCUSSION

A grantable petition pursuant to 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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes a response to the restriction requirement and payment of the fee under § 1.17(l). As this application was filed after June 8, 1995, no terminal disclaimer is required on petition to revive.

However, the petition is not grantable because requirement (3) above is not met. Applicant has not made an adequate verified showing of unavoidable delay. Applicant states that the Office action mailed September 5, 2003 was not received until October 29, 2003. In support thereof, applicant submits a copy of the envelope used to transmit the Office action. Applicant states further that, on October 30, 2003, they submitted a letter requesting clarification on how to proceed. Applicant states that a response from the Office was not received until February 2004. Applicant indicates that they did not understand what to do in response to the letter mailed September 5, 2003 because applicant's first language is not English and the process is very difficult because applicant does not have a lawyer. Applicant requests that considering the situation, the application be revived on petition under § 1.137(a), on the basis of unavoidable delay.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

A delay is not unavoidable because an applicant was waiting for a response from the Office, and while they waited the period for reply expired. The patent law requires an applicant to prosecute a patent application with reasonable diligence. See Planing Machine Co. v. Keith, 101 U.S. 479 (1879), *quoted* in In re Takeo, 17 U.S.P.Q. 2d (BNA) 1155 (Comm'r Pat. & Trademarks Feb. 27, 1990). The diligence required pertains to the act(s) required of applicant to respond to any outstanding Office action or requirement so that the PTO can take appropriate action in completing the examination of the application. In re Takeo, 17 U.S.P.Q.2d (BNA) 1155 (Comm'r Pat. & Trademarks Feb. 27, 1990). Thus, the failure to act does not reflect "unavoidable" delay. 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 unforseen 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).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute unavoidable delay. See Haines, 673 F. Supp. At 317, 5 U.S.P.Q.2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). (Cf. In re Decision dated February 18, 1969, 162 U.S.P.Q. 383 (Comm'r Pat. 1969; interpretation of rule 7 was not unreasonable; hence, resultant delay in prosecution may be considered unavoidable). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner's arguments and evidence have been considered, but not found persuasive. The delay is not found unavoidable based on late receipt of the Office action. Petitioner submitted a copy of the envelope used to mail the Office action. However, the envelope as currently shown in the image file wrapper of the instant application does not show that there was a delay in receipt. Nor does the envelope show Official postal service markings consistent with the envelope having been lost in the mail. Nor does the envelope bear a date-stamp reflecting late

receipt by applicant.

More importantly, even if it were clearly established that the Office action was not received by applicant until October 29, 2003, as of that date, applicant had sufficient time to file a reply to avoid abandonment. The period of reply, with the maximum extension of time under § 1.136(a), extended five months to March 5, 2003. In the letter of February 17, 2004, the examiner explained to applicant that they still had time to respond with an extension of time. In addition, the examiner explained to applicant how to respond (e.g. to choose one of group I (claim 1) and group II (claims 2-6). Finally, the examiner provided 2 telephone numbers, her own and a general number, that applicant could call to get answers to his questions. Applicant acknowledges that the examiner's letter of February 17, 2004, was received at the end of February. Under these circumstances, it cannot be concluded that applicant's delay in filing a response (pursuant to the examiner's direction) until March 23, 2004 was unavoidable within the meaning of § 1.137(a).

An applicant may prosecute an application without the benefit of an attorney. However, an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP will not be found "unavoidable."

For these reasons, the petition under § 1.137(a) on the basis of unavoidable delay must be dismissed.

Alternative Venue under § 1.137(b)

While the showing of record is not sufficient to satisfy the requirements of § 1.137(a), applicant is not precluded from seeking revival under § 1.137(b) on the basis of unintentional delay. A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d). **A copy of the form used to file a petition under § 1.137(b) is enclosed.**

Payment of the petition fee is a statutory prerequisite to consideration of the petition on the merits. See 35 U.S.C. 41(a)(7). This requirement cannot be waived. (The fee for a small entity is $665 and for a large entity is $1330.)

However, the extension for reply fee may be refunded. Any request for extension of time must be filed during the extendable period. As discussed above, in this instance, that period ended March 5, 2004. Accordingly, petitioner's request for and payment of an extension of time fee with the petition is not proper. **Applicant may either request refund of the $1005 extension fee submitted with the petition or request that the $1005 fee be used**

to pay the petition fee on the basis of unintentional delay and the remaining $340 ($1005 - $665) be refunded.

Applicant is further advised that not only must the delay in filing the reply to the Office action be unintentional (or unavoidable) for a petition under § 1.137 to be granted, but the delay in filing any petition must be unintentional (or unavoidable). The filing of a petition (including the renewed petition in response to this dismissal) cannot be intentionally delayed.

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) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW[1]
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64 - Two Pages - PETITION FOR REVIVAL ...

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[1] Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOUSUKE BAN
3-48-10, HARAJUKU, TOTUKA-KU
YOKOHAMA-CITY
KANAGAWA 24500-63
JAPAN

Paper No.

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JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of
Kousuke Ban
Application No. 10/207,215
Filed: July 30, 2002
Title: METHOD OF MANUFACTURING SURFACE ORNAMENT PLATE, PRODUCT FOR USE IN SUCH METHOD

DECISION ON PETITION

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed June 29, 2004.

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

The above-identified application became abandoned for failure to file a timely and proper reply to the restriction requirement mailed September 5, 2003. This Office action set a one-month period for reply, with extensions of time obtainable under § 1.136(a). On October 30, 2003, applicant filed a letter requesting clarification. By communication mailed February 17, 2004, applicant was advised that the restriction requirement remained in effect, and that their election should be submitted with the proper extension of time fee. However, the maximum extendable period for reply expired with no reply being received and no extension obtained. Accordingly, the application became abandoned effective October 6, 2003. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

The initial petition under § 1.137(a) filed March 23, 2004 was dismissed (Decision mailed May 26, 2004). The petition included a response to the restriction requirement and payment of the fee under § 1.17(l). However, the petition was not grantable because applicant had not made an adequate verified showing of unavoidable delay. (Upon dismissal of the petition, the $55 fee is not refundable. It was required for consideration of the petition under § 1.137(a)).

The instant petition is filed on the basis of unintentional delay and includes the required statement of unintentional delay. The required reply was previously filed. Furthermore, on initial

required reply was previously filed. Furthermore, on initial petition, applicant submitted an overpayment in the form of a $1005 extension of time fee. Applicant requests that the $1005 fee be applied to pay the $665 fee under 37 CFR 1.17(m)(The balance of $340 is being refunded by the Office of Finance to applicant's credit card). No terminal disclaimer is required.

Technology Center 1774 has been advised of this decision reviving this application. The examiner will consider applicant's response to the restriction requirement in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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Mailed: DEC 13 2004

Paper Number _____

In re application of :
Kousuke Ban : DECISION ON
Serial No. 10/207,215 : PETITION
Filed: July 30, 2002 :
For: METHOD OF MANUFACTURING SURFACE ORNAMENT PLATE, PRODUCT FOR USE IN SUCH METHOD

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed on September 23, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 29, 2004, for failure to timely file a proper reply to the Office letter mailed on September 5, 2003 be withdrawn. The petitioner asserts that the Notice of Abandonment was sent in error given the petition under 37 C.F.R. 1.137(b) filed on June 29, 2004, reviving the application and returning the present application to pending status (mailed on July 22, 2004).

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) – no abandonment-in-fact. A review of the USPTO application file reveals that the present application had been revived by the Office of Petitions prior to the mailing of the Notice of Abandonment on July 29, 2004.

A review of the petitioner's evidence indicates that a petition under 37 C.F.R. 1.137(a) filed on March 23, 2004 was dismissed because applicant had not made an adequate verified showing of unavoidable delay. The §1.137(a) petition included the required reply to the restriction requirement. The application was returned to pending status after filing of a subsequent petition on the basis of unintentional delay under 37 CFR 1.137(b) on June 29, 2004, which was granted.

Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed July 29, 2004 is hereby vacated, and the application is again returned to pending status. The application shall be forwarded to the examiner for entry, processing and consideration of the required reply as submitted on March 23, 2004.

The Petition is hereby **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KOUSUKE BAN
3-48-10, HARAJUKU, TOTUKA-KU
YOKOHAMA CITY
KANAGAWA, 2450063
JAPAN

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAIL

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McDERMOTT, WILL & EMERY
60013th Street, N.W.
Washington DC 20005-3096

In re Application of
BAO, DEREK HONGWEI, et al.
Appl. No.: 10/207,223
Filed: July 30, 2002
For: **SECTOR CAPACITY PREDICTION**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed July 27, 2005, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the proprietary documents submitted in the Information disclosure statement filed March 20, 2003 be expunged from the record. Petitioner states that 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.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from the electronic file.

Kenneth A. Wieder
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTINGLY, STANGER & MALUR
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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JAN 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Hidemitsu Higuchi et al :
Application No. 10/207,247 : DECISION GRANTING PETITION
Filed: July 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ASA-766-02 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 3, 2008 under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japan Application No. 8-174768, filed July 4, 1996.

The petitions are **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 20, 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]

As to the matter under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

---

[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.*

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on July 30, 2002, which is after November 29, 2000. Intermediate Application No. 08/887,123 was filed within 12 months of July 4, 1996, (the filing date of the foreign application to which benefit is now being claimed). On January 4, 2008, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 has been charged by credit card. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/207,247	07/30/2002	2616	1040		20	3

CONFIRMATION NO. 1552

MATTINGLY, STANGER & MALUR
Suite 370
1800 Diagonal Road
Alexandria, VA 22314

CORRECTED FILING RECEIPT

Date Mailed: 01/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hidemitsu Higuchi, Yokohama-shi, JAPAN;
Toshikazu Yasue, Chigasaki-shi, JAPAN;
Ken Watanabe, Kawasaki-shi, JAPAN;
Kazuaki Tsuchiya, Ebina-shi, JAPAN;

Assignment For Published Patent Application

Hitachi, Ltd.

Power of Attorney: The patent practitioners associated with Customer Number 24956

Domestic Priority data as claimed by applicant

This application is a CON of 09/257,003 02/25/1999 PAT 6,580,717
which is a CIP of 08/887,123 07/02/1997 PAT 6,038,233

Foreign Applications

JAPAN 10-046739 02/27/1998
JAPAN 8-174768 07/04/1996

If Required, Foreign Filing License Granted: 08/29/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/207,247**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PACKET COMMUNICATION METHOD AND APPARATUS AND A RECORDING MEDIUM STORING A PACKET COMMUNICATION PROGRAM

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Wood, Phillips, et al
Citicorp Center
500 West Madison Street
Ste. 3800
Chicago, IL 60661-2511

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
John D. Borg	:	
Application No. 10/207,255	:	
Filed: July 25, 2002	:	
Atty Docket No.:	:	
2002-7	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed December 9, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed June 29, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 30, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

THOMAS K. HONG
#33-2280 MUNN'S AVE
OAKVILLE, ONTARIO
L6H 3L1
CANADA

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas K. Hong	:	
Application No. 10/207,267	:	ON PETITION
Filed: July 30, 2002	:	
Attorney Docket No. RG-2-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 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 non-final Office action mailed June 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 September 10, 2003.

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.

The petition to revive an unintentionally abandoned application is $750.00. Petitioner has tendered a check in the amount of $1,175.00. Therefore, petitioner has submitted an overpayment of $425.00. Accordingly, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria,

VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

The application is being forwarded to Technology Center AU 3711.

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

BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

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DEC 27 2005

OFFICE OF PETITIONS

In re Application of :
Gerd G. Kochendoerfer, et al. :
Application No. 10/207,330 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 03504.293 :

This is a decision on the petition, filed October 20, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. This decision precedes the mailing of a Notice of Abandonment.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1656 for consideration of the response filed October 20, 2005.

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

MAILED
FROM DIRECTOR'S OFFICE
AUG 16 2006
TECHNOLOGY CENTER 3600

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P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re application of Jeffrey M. Lazerson Application No. 10/207,344 Filed: July 29, 2002 For: CREDIT/FINANCING PROCESS	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on July 15, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. Regarding item (B), the petition fails to include a statement that all claims are being directed to a single invention, or that applicant is willing to elect without traverse should a restriction or election be required.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 8/4/06

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

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

MAILED
FROM DIRECTOR'S OFFICE
OCT 19 2006
TECHNOLOGY CENTER 3600

In re application of
Jeffrey M. Lazerson
Application No. 10/207,344
Filed: July 29, 2002
For: CREDIT/FINANCING PROCESS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the renewed petition filed on September 13, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

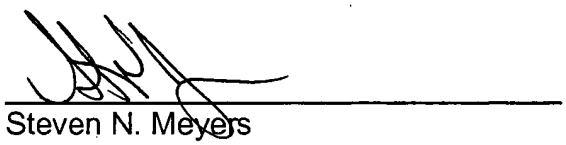
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571-272-6611

SNM/dcg: 10/13/06

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

Paper No. 10

RAYMOND A. MILLER
PEPPER HAMILTON LLP
500 GRANT STREET
50TH FLOOR
PITTSBURGH, PA 15219-2502

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Kaesemeyer
Application No. 10/207,399
Filed: July 29, 2002
Attorney Docket No. 126625.410

ON PETITION

This decision concerns the March 25, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on November 4, 2002 for failure to timely submit the basic filing fee, the extra claims fees, and a properly signed oath or declaration as required by the September 3, 2002 "Notice to File Missing Parts of Nonprovisional Application."

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the basic filing fee, the extra claims fees, a properly signed oath or declaration and the $65 surcharge (small entity) for late filing of such an oath or declaration; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in filing the required items from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition meets the above requirements and is thus granted.[1] The application is now complete.

The file is being forwarded to Technology Center 1600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

---

[1] **The current attorney-of-record was appointed by Applicant to prosecute the application before the USPTO on 3/15/04, more than a year after the application had become abandoned. It is unclear whether this attorney has firsthand knowledge of how and why the required items were not timely filed. However, the petition is granted based on the presumption that this attorney made the statement of "unintentional delay" (37 CFR 1.137(b)(3)) subsequent to a reasonable inquiry into the circumstances of the entire delay at issue. If this presumption is incorrect, the attorney must inform the Office in writing upon receipt of this decision.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 10 2007

OFFICE OF PETITIONS

Hanan Polansky
3159 S. Winton Rd.
Rochester NY 14623

In re Application of :
Polansky, et al. : DECISION ON PETITION
Application No. 10/207,421 :
Filed: July 29, 2002 :
For: METHODS FOR CHRONIC :
DISEASE DIAGNOSIS BASED ON :
MICROCOMPETITION WITH A FOREIGN :
POLYNUCLEOTIDE :

This decision is in response to the petition to revive the above-identified application under 37 CFR 1.137(a) filed July 30, 2007.

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 December 22, 2006 for failure to timely reply to the Notice mailed November 21. 2006. The Notice set a one month shortened statutory period of time for reply. No petition for extension of time was timely submitted. This decision precedes Notice of Abandonment.

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 pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office

action or notice, unless previously filed; (2) the petition fee as set forth in 37 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Petitioner attributes the failure to timely submit a proper reply to the Notice to non-receipt of the Notice. Petitioner indicates that at the time of mailing of the Notice, he had moved from the address contained in Office records. Petitioner had the expectation that the United States Postal Service (USPS) would forward any mail directed to him to the address of a friend as petitioner himself was out of the country.

Petitioner is advised that where 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. *See*, MPEP 711.03(c).

As acknowledged by petitioner, petitioner failed to submit a change of correspondence address until after the Notice was mailed. Failure to promptly notify the Office of a change of correspondence address is not deemed unavoidable within the meaning of 37 CFR 1.137(a).

Any renewed petition must establish that the entire period of time, the from the time that a reply was due until the filing of a grantable petition, was unavoidable.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under

Application No. 10/207,421

37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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) 273-3205
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 25 2008

OFFICE OF PETITIONS

Hanan Polansky
2030 ELMWOOD AVENUE
Rochester NY 14620

In re Application of	:	
Polansky	:	
Application No. 10/207,421	:	DECISION ON PETITION
Filed: July 29, 2002	:	
For: METHODS FOR CHRONIC DISEASE DIAGNOSIS BASED ON MICROCOMPETITION WITH A FOREIGN POLYNUCLEOTIDE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 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 Office communication mailed, November 21, 2006, which set a shortened statutory period for reply of one month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. This decision precedes Notice of abandonment.

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 required petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the reply received

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY & LICENSING
E0/E01/E150
2000 EAST EL SEGUNDO BOULEVARD
P O BOX 902
EL SEGUNDO, CA 90245

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OFFICE OF PETITIONS

In re Application of
Andrew G. Toth et al
Application No. 10/207,422
Filed: July 25, 2002
Attorney Docket No. 01W020

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

This is a decision on the petition, filed April 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 January 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

The Associate Power of Attorney accompanying the instant petition has been entered. However, if it is desired to have correspondence mailed to the associate attorney(s), the appropriate change of correspondence address must be submitted.

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

GARLICK, HARRISON MARKISON LLP
P.O. Box 160727
Austin TX 78716-0727

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Marcus May : NOTICE
Patent 6,977,447 :
Application No. 10/207,450 :
Filed: July 29, 2002 :
Issued: December 20, 2005 :

This is a notice regarding your request filed on July 18, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

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.

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 specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Robert A. McLauchlan
P.O. Box 26780
Austin, Texas 78755

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Paper No. 7

PATREA L. PABST
HOLLAND & KNIGHT LLP
SUITE 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3400

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Jill Sherwood et al
Application No. 10/207,531
Filed: July 29, 2002
Attorney Docket No. TH 100

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 3700.

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

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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE
MC 110
FRANKLIN LAKES, NJ 07417-1880

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Niermann, Volker	:	
Application No. 10/207,533	:	DECISION GRANTING PETITION
Filed: July 29, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P-5291/1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/311,005, filed August 9, 2001, 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 instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/311,005, which was filed on August 9, 2001, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. 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 3736 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to above-noted, prior-filed provisional application in due course.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/207,533	07/29/2002	3736	870	P-5291/1	17	3

CONFIRMATION NO. 9985

CORRECTED FILING RECEIPT

26253
David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

Date Mailed: 03/18/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Volker Niermann, Boundbrook, NJ;

Power of Attorney:

Eric Lee--30471
Richard Brown--30934
Nanette Thomas--33310
Alan Fiedler--33690
Bruce Weintraub--34277
Scott Rittman--39010

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/311,005 08/09/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/26/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/207,533**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Nestable needle holder and package

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Paper No. 6

MAR 11 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

In re Application of
Brian A. Chaput

Application No. 10/207,540
Filed: July 29, 2002
For: **ALL-OPTICAL REGENERATOR FOR RETIMING, RESHAPING AND RETRANSMITTING AN OPTICAL SIGNAL**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent of record filed on October 22, 2003.

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

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

Attorneys/agents listed in the Request to withdraw are withdrawn. It is noted that William Tucker remains as attorney of record for the subject application.

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

The file is being returned to TC 2600 Central Files to await examination in appropriate turn.

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

Cc: Wilson Sonsini Goodrich & Rosati – Attn. Peter Eng
650 Page Mill Road
Palo Alto, CA 94304-1050

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United States Patent and Trademark Office
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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET - 3RD FLOOR
NEW YORK, NY 10038

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Te Hsin Hsu :
Application No. 10/207,543 : DECISION GRANTING PETITION
Filed: July 27, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AAQ2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of February 11, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3727.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

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OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of
Gardner, et al.
Application No. 10/207,564
Filed: August 29, 2002
Attorney Docket No.: 980.1106US01
FOR: OPTICAL DEVICE FOR COMPENSATION OF MULTIPLE WAVELENGTHS AND WORKING DISTANCES IN DUAL-FIBER COLLIMATORS

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 29, 2002, requesting that the above-identified application be accorded a filing date as of the date of submission of omitted Figure 4.

The application was deposited on July 29, 2002. On August 20, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application (Notice) informing petitioner that Figure 4, as described in the specification, appeared to have been omitted.

In response to the Notice, a petition under 37 CFR 1.182, including Figure 4 and a newly executed supplemental declaration, was filed on August 29, 2002, requesting that the above-identified application be accorded a filing date as of the date of deposit of the item noted as omitted in the Notice mailed August 20, 2002.

The above-identified application should be accorded a filing date of August 29, 2002, which is the date that Figure 4 was received in the Office.

The petition is granted.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 29, 2002**. The Office of Initial Patent Examination will mail a filing receipt in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Roberto Tagliabue et al. :
Application No. 10/207,589 : DECISION ON PETITION
Filed: July 29, 2002 : PURSUANT TO
Attorney Docket Number: : 37 C.F.R. § 1.137(B)
CS90061 :
Title: GRAPHIC ENTRIES FOR :
INTERACTIVE DIRECTORY :

This is a decision on the petition filed August 8, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

This application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed subsequent to the filing of this petition on August 13, 2007.

1 See M.P.E.P. § 710.02(e).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R § 1.17(m);
(2) 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;
(3) 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 has submitted the petition, issue, and publication fees, along with a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

Consequently, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

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.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: MOTOROLA INC
LAW DEPARTMENT (JTC)
600 NORTH US HIGHWAY 45
LIBERTYVILLE IL 60048

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

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ALEXANDRIA, VA 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

AUG 04 2008

In re Patent No. DOTTERMAN ET AL.
Issue Date: June 7, 2005
Appl. No.: 10/207,590
Filed: July 29, 2002
For: BRUSH CADDY

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the petition filed April 13, 2007 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b).

Items (1) and (2) have been received and are acceptable. This petition lacks item(s) (3) in proper form.

Specifically, the Statement of Assignee provided is signed by an attorney of record with no statement the attorney of record is empowered to sign on the behalf of the assignee. Noting MPEP 1481.02 and in particular MPEP 324 section V, "A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.".

Thus, the submission must be signed by a person in the organization having apparent authority to sign on behalf of the organization or the signature must be accompanied by an express statement that the person signing is authorized or empowered to act on behalf of the assignee.

Submission of a renewed petition including a properly signed statement from all assignees of the parties would cure the deficiency. Questions regarding this decision may be directed to J. Harrison, Special Programs Examiner, Technology Center 3700 at 571- 272-4449.

Derris Banks
Supervisory Patent Examiner
Art Unit 3725
Patent Examining Group 3700

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GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS, MN 55440

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of Dreese et al. :
Application No. 10/207,601 : Decision on Petition
Filing Date: July 29, 2002 :
Attorney Docket No. 6027USA :

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 7, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 8, 2006.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 1761 will be informed of the instant decision and the application, including the amendment filed October 26, 2006, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Dardi & Associates PLLC
US Bank Plaza, Suite 2000
220 South 6th Street
Minneapolis, MN 55402

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FAIRFIELD CT 06824

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JUN 22 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Hougham et al. :
Application No. 10/207,617 :
Filed: July 29, 2002 :
Attorney Docket No. :
YOR920000857US1;950-01007

This is a decision on the petition filed on May 29, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 29, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1)

As to item (1) the submission requirement petitioner seeks to use is the previously submitted amendment dated April 28, 2008. However, the Notice of Non Complaint Amendment and the Advisory Action mailed on June 30, 2008 informed applicant that the amendment submitted on April 28, 2008 was not complaint pursuant to 37 CFR 1.121 and 1.4.

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

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

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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425 POST ROAD
FAIRFIELD CT 06824

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SEP 08 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hougham et al. :
Application No. 10/207,617 :
Filed: July 29, 2002 :
Attorney Docket No. :
YOR920000857US1;950-01007

This is a decision on the renewed petition filed on August 24, 2009 under 37 CFR 1.137(b), 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 December 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Perman & Green, LLP
425 Post Road
Fairfield, CT 06824

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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APR 15 2004

OFFICE OF PETITIONS

In re Application of
Kai et al.
Application No. 10/207,620
Filed: July 26, 2002
Attorney Docket No. FUJA 19.864

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 7, 2003. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on December 8, 2003.

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

The file is now being forwarded to Technology Center 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 the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Gary L. Hunter et al :
Application No. 10/207,631 : DECISION ON PETITION
Filed: July 30, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. 4083P2520 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 24, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of a driver's license. However, the birth date is not clear.

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3714 to await applicants' reply to the non-final Office action mailed October 19, 2005.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAY 14 2004
OFFICE OF PETITIONS

In re Application of
Jagdish Narayan, et al.
Application No. 10/207,649
Filed: July 26, 2002
Attorney Docket No. 0717.2028-001

ON PETITION

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

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, January 12, 2004 using a Certificate of Mailing under 37 CFR 1.8 dat4ed January 7, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2814 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).

10207650

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/22/06

Paper No.: _____

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction on Patent No.: 6850353

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

SPE

3728
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Stephen Pollmann	: DECISION ON REQUEST FOR
Patent Number	: 7577100	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/207,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1669** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Jones et al. :
Application No. 10/207,662 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. ELESP007 :

This is a decision on the petition filed September 9, 2002, to accord the above-identified application a filing date of July 26, 2002, instead of July 30, 2002.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; 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.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of July 26, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of July 26, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Law Offices of Clark D. Gross
c/o Russ August & Kabat
Suite 1200
12424 Wilshire Boulevard
Los Angeles CA 90025-1031

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Georges :
Application No. 10/207,664 : DECISION ON PETITION
Filed: July 29, 2002:
For: OIL SEALANT PRESERVING DRAIN DOOR TRAP :

This is a decision on the petition under 37 CFR 1.137(b) filed October 13, 2004, requesting revival of 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 (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to reply to pay the issue and publication fees within three months of the Notice of Allowance mailed June 24, 2004, which set a non-extendable period for reply of 3 months. The date of abandonment is September 25, 2004. A Notice of Abandonment has not been mailed.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) an adequate 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**) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

In this regard, petitioner has remitted an issue fee of $665. While this is the amount required by the Notice of Allowance mailedprior to October 1, 2004, the issue fee that was owed on the day the petition was filed had increased to $685. Thus petitioner is deficient by $20. It is recognized that petitioner asked that any fee deficiency be remedied when the USPTO processed the credit card payment. However, as 37 CFR 1.23(b) mandates that the payor "must specify the amount to be charged to the credit card," this request could not be followed under the rule, in that petitioenr did not specify the exact amount to pay. The petition is otherwise grantable.

Any forthcoming renewed petition should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314:
By fax:	(703) 872-9306 ATTN: Office of Petitions

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Law Offices of Clark D. Gross
c/o Russ August & Kabat
Suite 1200
12424 Wilshire Boulevard
Los Angeles CA 90025-1031

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Georges :
Application No. 10/207,664 : DECISION ON PETITION
Filed: July 29, 2002:
For: OIL SEALANT PRESERVING DRAIN DOOR TRAP :

This is a decision on the renewed petition under 37 CFR 1.137(b) filed May 16, 2005, requesting revival of the above-identified application.

The petition is granted.

This application became abandoned for failure to reply to pay the issue and publication fees within three months of the Notice of Allowance mailed June 24, 2004, which set a non-extendable period for reply of 3 months. The date of abandonment is September 25, 2004. A Notice of Abandonment has not been mailed.

As the renewed petition supplies the balance owed of the issue fee, the petition can be favorably considered.

This application is being referenced to the Office of Publications.

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Goodman et al	:	
Application No. 10/207,685	:	DECISION DISMISSING PETITION
Filed: July 26, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920020089US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 24, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on January 11, 2007, with the issue fee being due on or before April 12, 2007. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(c)(2) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2151 for appropriate processing of the RCE filed January 24, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of :
Brian D. Goodman et al :
Application No. 10/207,685 : ON PETITION
Filed: July 26, 2002 :
Attorney Docket No. POU920020089US1

This is a decision on the petition, filed October 22, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2151 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Dunlap, Codding & Rogers P.C.
PO Box 16370
Oklahoma City, OK 73113

In re application of
P. Lloyd Hildebrand, et al.
Application No. 10/207,687
Filed: July 26, 2002
For: DIGITAL DISEASE MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is in response to the petition filed on December 18, 2003 to make the above-identified application special.

Applicants have petitioned to make the above-noted application special pursuant to 37 CFR 1.102(d). Applicants state that the "grounds for the present Petition is that applicants filed an amendment on April 30, 2003 in order to provoke an interference with another pending application".

Currently, the grounds upon which the applicant endeavors to make his application special, provoking an interference, is not recognized as a valid reason for granting an application special status under 37 CFR 1.102(d). The only acceptable reasons for requesting an application be awarded special status can be found in MPEP 708.02.

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

It is suggested that the applicant contact the examiner or their supervisor to discuss accelerated handling based upon the possible interference.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

SNM/rwg: 11/08/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

MARSH FISCHMANN &
BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

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JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Zheng et al. :
Application No. 10/207,698 : ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. 3123-443 :

This decision concerns the June 12, 2003 petition under 37 CFR 1.182 to change the name of one of the inventors.

The petition is **GRANTED**.

When an inventor changes his/her name after the filing of an application and wishes to have the new name reflected in the application/patent, he/she must file a petition under 37 CFR 1.182 that includes:

(1) a $130 petition fee; and

(2) an affidavit signed with both names, setting forth the procedure whereby the name change was effected, or enclosing a certified copy of the court order.[1]

The petition encloses the $130 petition fee, and an affidavit signed by the inventor, Geon Choe ("Choe"), in his former and current names. The affidavit also explains that the name change took place during his naturalization process in becoming a U.S. citizen, and was granted by the court. The petition is thus granted.

The file is being forwarded to the Office of Initial Patent Examination for changing Choe's name on the application file wrapper and in the PTO PALM database **from** "Geon Choe" **to** "**Gunn Choe**" (emphasis added)

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

RC Tang
Petitions Attorney
Office of Petitions

---

[1] MPEP section 605.04(c) (Rev. 1, Feb. 2003).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090819

DATE : January 8, 2007

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.10/207708patent no.68842361

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: The correction should actually be made on line 10 (rather than line 9) in column 19 of U.S. patent no. 6,884,261.

/David H. Willse/
Primary Examiner

August 19, 2009

SPE

3738

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Goodman et al	:	
Application No. 10/207,711	:	DECISION DISMISSING PETITION
Filed: July 26, 2002	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. POU920020088US1	:	

This is a decision on the petition under 37 CFR 1.313(a), filed January 24, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on December 13, 2006, with the issue and publication fees being due on or before March 13, 2007. Office records fail to disclose payment of the issue fee in this case.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2144 for appropriate processing of the RCE filed January 24, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

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

FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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NOV 20 2007

OFFICE OF PETITIONS

In re Application of :
Brian D. Goodman et al :
Application No. 10/207,711 : DECISION GRANTING PETITION
Filed: July 26, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920020088US1 :

This is a decision on the petition, filed November 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2144 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\nov11\207711.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
RICHARD LAU
IPLAW DEPARTMENT/BLDG 008-2
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE NY 12601

MAILED

NOV 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Goodman et al	:	
Application No. 10/207,711	:	DECISION GRANTING PETITION
Filed: July 26, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920020088US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 24, 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 October 27, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2444 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.*

IN THE U.S. PATENT & TRADEMARK OFFICE

Applicant: Brian D. Goodman et al. : Confirmation No. 2448
Serial No. 10/207711 : GROUP ART UNIT 2444
Filed: 07/26/2002 : Examiner: Nguyen, Thanh T
Title: INTERACTIVE FILTERING : November 24, 2009
ELECTRONIC MESSAGES RECEIVED : Floyd A. Gonzalez
FROM A PUBLICATION/SUBSCRIPTION : Intellectual Property Law
SERVICE : 2455 South Road - P386
Poughkeepsie, NY 12601

Commissioner for Patents
P.O. Box 1450
Alexandria Va. 22313-1450

Petition to Withdraw from Issue according to 37 C.F.R. 1.313(c)(2)

Sir:

The applicant respectfully requests that US Patent Application Serial No. 10/207,711 be withdrawn from Issue in consideration of a request for continued examination of the application in compliance with 37 C.F.R. 1.114. Please charge any fees to Deposit Account 09-0463.

RESPECTFULLY SUBMITTED

/Floyd A. Gonzalez/

11/27/2009 LDIEP1 00000013 090463 10207711
01 FC:1464 130.00 DA

Floyd A. Gonzalez, Reg. 26,732
Phone: 845-433-7282
Fax: 845-432-9786

USPTO JC67 FEB 10 2004 PATENT & TRADEMARK OFFICE

Image 1744

Attorney Docket No.: KNUT-003

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Serial No.: **10/207,715**)
Patent No.: **Not Applicable.**)
Filed: **7/25/2002**)
Invention: **Disposable Toothbrush System**)
1st Inventor: **Knutson, James**)
Examiner: **Spisich, Mark**)
Group Art Unit: **1744**)

REQUEST FOR WITHDRAWAL AS ATTORNEY

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

Approved
dmstone
Jacqueline M. Stone, Director
Technology Center 1700
SEP - 2 2004

Dear Commissioner:

I, Michael S. Neustel, (41,221) hereby apply to withdraw as attorney for the above-identified patent application. This application for withdrawal will not prejudice the Applicant in this matter. Attorney has given due notice to the Applicant of his withdrawal and has delivered to the Applicant all papers/property in the Attorney's file concerning the prosecution of the application.

The reason(s) for this request are:

[ ] Practitioner has been discharged by client.

[ ] Client knowingly and freely assents to termination of the employment.

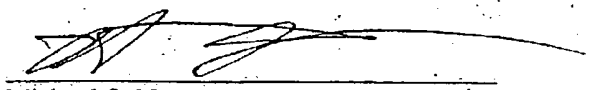
[ ] Client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time.

[X] Client has failed to pay a retainer in advance of the performance of legal services and/or payment of USPTO fees.

Please change the correspondence address and direct all future correspondence to:

James D. Knutson
3345 Landview Road N.W.
Fargo, ND 58102
Telephone: (701) 282-6903 (701) 282-6903

Respectfully submitted,



February 6, 2004
Date

Michael S. Neustel (Reg. No. 41,221)
NEUSTEL LAW OFFICES, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103
Telephone: (701) 281-8822
Facsimile: (701) 237-0544
e-mail: michael@neustel.com

Copy: James D. Knutson

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Kenneth S. Bailey
Suite 207
4134 Gulf of Mexico Drive
Longboat Key FL 34228

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OFFICE OF PETITIONS

In re Application of
Bailey
Application No. 10/207,730
Filed: July 30, 2002
Attorney Docket No. N/A
For: PLUG IN CREDIT CARD READER MODULE FOR WIRELESS CELLULAR PHONE VERIFICATIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2003, to revive the above-identified application. Because petitioner has not paid the $665.00 petition fee in full, the petition under 37 CFR 1.137(b) is **dismissed** and will not be addressed on the merits.

However, the petition may be treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment in the absence of the $665.00 petition fee.

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

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 10, 2002. The Notice required petitioner to submit an executed oath/declaration, a $65.00 surcharge for its late filing, a substitute specification and substitute drawings by November 12, 2002. This period was extendable under 37 CFR 1.136(a). Petitioner filed a substitute specification, claims beginning on a separate sheet, an abstract on a separate sheet, substitute drawings, and a check for $65.00 on November 12, 2002.

Petitioner's November 12, 2002 response was not complete. Petitioner did not submit an executed oath/declaration and the $65.00 check submitted on November 12, 2002 bounced.

The Office mailed a Notice of Incomplete Reply (Nonprovisional) on December 5, 2002, which required petitioner to submit the $65.00 surcharge, replacement claims commencing on a separate sheet, and a replacement abstract commencing on a separate sheet. This Notice was flawed. As stated above, petitioner's November 12, 2002 response included claims beginning on a separate sheet and an abstract on a separate sheet. Petitioner already met those two requirements. However, petitioner still had not submitted an executed oath/declaration and the $65.00 surcharge. The Notice should have reminded petitioner of the need to submit an executed oath/declaration, also.

The instant petition was filed on July 2, 2003. Petitioner requests revival of the application under 37 CFR 1.137(b). Petitioner submitted the $65.00 surcharge, a three month $465.00 extension of time request; an explanation that he did not receive the Notice of Incomplete Reply (Nonprovisional) until February 7, 2003 because he changed residences a number of times between its mailing date and the date it eventually caught up to him; a declaration of facts by Aftab A. Malik, Esq. concerning the facts surrounding the application's filing in July of 2002, another copy of the abstract commencing on a separate sheet, another copy of the claims commencing on a separate sheet, and $120.00 additional dollars.[1]

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(a) 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 petition lacks item (2).

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $665.00. The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

A review of Office records indicates that petitioner has paid $465.00 for a three month extension of time. However, it is not possible to purchase an extension of time after the expiration of the maximum period obtainable for reply to avoid abandonment. 37 CFR 1.136. Accordingly, since the $465.00 extension of time submitted with the petition on July 2, 2003 was subsequent to the maximum period obtainable for reply (April 10, 2003), the fee cannot be accepted. The undersigned will apply it towards the $665.00 fee due, along with the $120.00 balance paid on July 2, 2003. Therefore, petitioner has paid $ 465.00 + $120.00 or $585.00 of the $665.00 owed. **Petitioner must pay $80.00 before the petition under 37 CFR 1.137(b) is addressed.**

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

The constructive petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED**. Petitioner was aware that he had to submit an executed oath/declaration and $65.00 fee by November 12, 2002. These requirements were set in the September 10, 2002 Notice to File Missing Parts of Nonprovisional Application. The December 5, 2002 Notice Of Incomplete Reply did not set any new requirement. The fact that petitioner received the Notice of Incomplete Reply on February 7, 2003 has no impact on the requirements set in the September 10, 2002 Notice to File Missing Parts of Nonprovisional Application. The filing of a partial response to the September Notice did not toll the period for response, which expired on November 13, 2002.

It is noted that petitioner received the December 5, 2002 Notice of Incomplete Reply on February 7, 2003. At that point petitioner could have still purchased an extension of time and submitted an executed oath/declaration and the $65.00. Petitioner had until April 10, 2003 to buy extensions of time.

On another issue, it appears that the declaration of facts by Aftab A. Malik, Esq. was submitted in the hopes that the application's filing date would be moved from the presently accorded filing date

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[1] Petitioner claimed to have submitted a check for $660.00, but the Office only received a check for $650.00. Thus, after the $65.00 surcharge and the $465.00 extension of time fee were charged, a $120.00 balance, not the $130.00 petition to commissioner fee that petitioner intended to submit, remained.

of July 30, 2002 to July 20, 2002 in order to benefit from the prior filing of provisional application no. 60/306,520, filed July 20, 2001. Any request to alter the filing date will be entertained only if a $130.00 petition fee is submitted. The petition should be entitled, "Petition under 37 CFR 1.183 Regarding Filing Date."

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
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Bailey :
Application No. 10/207,730 : DECISION ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. N/A :
For: PLUG IN CREDIT CARD READER MODULE FOR WIRELESS CELLULAR PHONE
VERIFICATIONS

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed May 27, 2004 and supplemented on July 26, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 10, 2002. The Notice required petitioner to submit an executed oath/declaration, a $65.00 surcharge for its late filing, a substitute specification and substitute drawings by November 12, 2002. This period was extendable under 37 CFR 1.136(a). Petitioner filed a substitute specification, claims beginning on a separate sheet, an abstract on a separate sheet, substitute drawings, and a check for $65.00 on November 12, 2002.

Petitioner's November 12, 2002 response was not complete. Petitioner did not submit an executed oath/declaration and the $65.00 check submitted on November 12, 2002 bounced.

The Office mailed a Notice of Incomplete Reply (Nonprovisional) on December 5, 2002, which required petitioner to submit the $65.00 surcharge, replacement claims commencing on a separate sheet, and a replacement abstract commencing on a separate sheet. This Notice was flawed. As stated above, petitioner's November 12, 2002 response included claims beginning on a separate sheet and an abstract on a separate sheet. Petitioner already met those two requirements. However, petitioner still had not submitted an executed oath/declaration and the $65.00 surcharge. The Notice should have reminded petitioner of the need to submit an executed

oath/declaration, also.

Applicant's first petition under 37 CFR 1.137(b) was filed on July 2, 2003. The petition was dismissed on March 1, 2004 for failure to pay the entire petition fee, failure to pay the $65.00 surcharge, and failure to submit an executed oath/declaration.

Applicant has submitted a reply in the form of the surcharge and an executed oath/declaration, an acceptable statement of the unintentional nature of the delay in responding to the Notice to File Missing Parts of Nonprovisional Application, mailed September 10, 2002, and the entire petition fee.

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

After the mailing of this decision the application will be forwarded to Technology Center 2800 for further examination.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of
Kenneth Stephen Bailey
Application No. 10/207,730
Filed: July 30, 2002
Attorney Docket No. 17342-003001

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 9, 2007.

The request is **APPROVED**.

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

The request was signed by Scott C. Harris on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KENNETH S. BAILEY
SECURE LOGISTIX
2149 VISTA DORADO STREET
NEWPORT BEACH, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/207,730	07/30/2002	Kenneth Stephen Bailey	

CONFIRMATION NO. 2464

OC000000024702247

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/09/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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DIW Sep-06

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

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OFFICE OF PETITIONS

In re Application of	:	
Chernoff et al.	:	DECISION ON PETITION TO
Application No. 10/207,734	:	WITHDRAW HOLDING OF
Filed: 29 July, 2002	:	ABANDONMENT
Atty Docket No. GP-301806	:	

This is a decision on the petition styled under 37 CFR 1.137(b) filed on 20 February, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 26 January, 2006, stating that the application was abandoned for failure to timely file a proper Appeal Brief in response to the Notice of Appeal filed on 27 December, 2004.

A review of the record reveals that on 3 March, 2005 (certificate of mailing date 28 February, 2005), an Appeal Brief was filed. On 13 May, 2005, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed, setting a one (1) month shortened period for reply. On 16 June, 2005 (certificate of mailing date 13 June, 2005), a corrected Appeal Brief was filed.

Petitioners assert that the Notice of Abandonment should be withdrawn because a timely reply was filed.

Upon review, it is noted that the Notification mailed on 13 May, 2005, states that applicant is given one month or 30 days to respond and that EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136." Further, MPEP 1205.03 states that applicant will be given 1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer, to file an amended brief. Extensions of time may be granted under 37 CFR 1.136(a) or 1.136(b). As such, applicant is in fact entitled to obtain extensions of time to respond to the Notice.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 3618 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. O'ROURKE
BODNER & O'ROURKE, L.L.P.
425 BROADHOLLOW ROAD
MELVILLE, NY 11747

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FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of
Fichtner et al.
Application No. 10/207,743
Filed: July 30, 2002
For: Carrying Case For Food Products

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 5, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 6, 2002. A Notice of Abandonment was mailed on January 20, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/20/2007

TO SPE OF : ART UNIT 1700 (1744)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,986,867

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter dependency changes as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

1744

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

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OFFICE OF PETITIONS

In re Application of :
Hiroaki Takeishi :
Application No. 10/207,768 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 03560.002469.1

This is a decision on the petition, filed December 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK, CELLA, HARPER & SCINTO

In re Application of
Hiroaki Takeishi
Application No. 10/207,768
Filed: July 31, 2002
Attorney Docket No. 03560.002469.1

ON PETITION

This is a decision on the petition, filed December 3, 2004, under 37 CFR 1.313~~(c)(2)~~ to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2877 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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/207,802	07/31/2002	Alastair Michael Slater	1509-342	5181

7590 01/10/2008

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

EXAMINER	
NGUYEN, THANH T	
ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

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

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

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TECHNOLOGY CENTER 2100

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

In re Application of:
Alastair M. SLATER, et al.
Application No. 10/207,802
Filed: July 31, 2002
For: REMOTE MONITORING OF COMPUTER DEVICES

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petitions, filed on Nov 19, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Director and to vacate the Notice of Non-Compliant Amendment filed Oct 25, 2007.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

On Aug 20, 2007, Applicant timely filed an RCE under 37 CFR 1.114. The RCE includes amendment which adds claims 49-50 and amends all claims including withdrawn claims 34 and 39. Claims 34 and 39 were amended to dependent from elected claims 23 and 38 respective with a status identifier of "**withdrawn - currently amended**".

On Oct 25, 2007, the Examiner mailed a Notice of Non-Compliant Amendment under 37 CFR 1.121 indicating that claims 34 and 39 have not been provided with the proper status identifier.

On Nov 19, 2007, the instant petition was filed, requesting the relief of the Notice of Non-Compliance on Oct 25, 2007 on the ground that the status identifier (withdrawn – currently amended) is proper. The Applicant also indicates that on Nov 12, 2007, the examiner had suggested the applicant to replace claims 34 and 39 with new claims to avoid the Notice of Noncompliance. The petition maintains that the status identifier is compliance with 37 CFR 1.211.

ANALYSIS

37 C.F.R. § 1.121(c) states, in part:

> ...In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered)...
>
> (5) Reinstatement of previously canceled claim. A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

MPEP 821.01 states, after election with traverse:

> 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.

MPEP 821 states in part,

> Applicant may traverse the requirement pursuant to 37 CFR 1.143. If a final requirement for restriction is made by the examiner, applicant may file a petition under 37 CFR 1.144 for review of the restriction requirement.

It appears that the Restriction Requirement was elected with traverse (see Response filed June 28, 2007). The Restriction Requirement was never made final and claims 34 and 39 are not canceled. Therefore, contrary to the Office Action Summary of the Final Office action mailed in Jun 28, 2008, which indicates only claims 1-30, 32-33, 35-38 and 40-48 as being pending; the fact is **claims 34 and 39 are still pending**. The examiner's suggestion of replacing claims 34 and 39 with new claims is not proper, since these claims have not previously been cancelled. Hence, the status identifier of claims 34 and 49 are appropriate and in compliance with 37 CFR 1.121.

DECISION

Since the RCE filed on Aug 20, 2007 under 37 CFR 1.14 is proper and the Amendment is in compliance with 37 1.121; therefore the Notice of Non-Compliance Amendment on Oct 25, 2007 is hereby vacated and the Amendment will be entered and considered.

For the reason stated above, the petition is **GRANTED.**

Upon the mailing of this petition, the application will be forwarded to the examiner for appropriate treatment of the RCE and the Amendment.

In considering the Amendment, the Examiner should **reconsider the propriety of the restriction requirement.** If the restriction of claims 34 and 39 is still deemed appropriate, the restriction should be made final to afford the Applicant an opportunity to file a petition (MPEP 821 and 821.01); otherwise, a withdrawal of the restriction is recommended.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 272-4147.

Jeffrey Gaffin, Acting Director
TC 2100, Computer Architecture, Software, and
Information Security

#5 | Leeder
Slm
8/03

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JUL 25 2003
PATENT & TRADEMARK OFFICE

S&H Form: (2/01)
Attorney Docket No. 1509.1021-RE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Reissue of Patent No.: 6,296,503 Issued: October 2, 2001

Hideo SHIMADA et al.

Application No.: 10/207,818 Group Art Unit: 2839

Filed: July 31, 2002 Examiner: NASRI, JAVAID H

GRANTED
ENTERED
JGD 11/30/05

For: SOCKET FOR ELECTRICAL PARTS WITH IMPROVED ELECTRICAL CONTACT

PETITION UNDER 37 C.F.R. §1.48(b)

RECEIVED
JUL 30 2003
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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the requirements of 37 C.F.R. §1.48(b)(1), the following named inventor(s) is/are being deleted from the subject application because not an inventor of the invention now being claimed in the application:

Kentaro MORI

This petition is accompanied by the fee set forth in 37 C.F.R. §1.17(i). If any further fees are necessary in the filing of this Petition, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: July 23, 2003

By: Mark Henry
Mark J. Henry
Registration No. 36,162

1201 New York Ave, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

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CERTIFICATE UNDER 37 CFR 1.8(a)
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO. Box 1450, Alexandria, VA 22313-1450
on July 23, 20 03
STAAS & HALSEY
By: Maurant Tryon
Date: 7-23-03

07/28/2003 WABDELR1 00000144 193935 10207818
01 FC:1460 130.00 DA

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ARLINGTON VA 22201-4714

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In re Application :
Fuminori Suzuki et al :
Application No. 10/207,841 : LETTER
Filed: July 31, 2002 :
Attorney Docket No. 2018-588 :

This is in response to the paper filed January 25, 2005, requesting that status as a Small Entity be removed.

In accordance with the January 25, 2005 request, status as a Small Entity has been removed and the large entity portion of the fees being returned have been accepted. All future fees must be paid at the large entity rate.

This matter is being referred to Patent Publication.

Karen Creasy

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

#3
7/24/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
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JUL 24 2003

TECHNOLOGY CENTER 2100

Paper No. 3

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:
R. Webb
Application No. 10/207,869
Filed: July 31, 2002
For: SYSTEM AND METHOD FOR INDICATING THE STATUS OF A COMMUNICATIONS LINK AND TRAFFIC ACTIVITY ON NON-PROTOCOL AWARE MODULES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 23, 2003.

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

The request filed June 23, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Anne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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John C. Holman
JACOBSON HOLMAN
PROFESSIONAL LIMTED LIABILTY COMPANY
400 Seventh Street, N.W.
Washington, DC 20004

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Carl Damien Murray *et al.* :
Application No. 10/207,882 : DECISION ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. P67021US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 29 January 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure s to timely pay the issue and publication fees on or before 31 October 2007, as required by the Notice of Allowance and Fee(s) Due, mailed 31 July 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on 01 November 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional." The statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3).

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 Allen C. Ho at (571) 272-6052.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JACOBSON HOLMAN
PROFESSIONAL LIMTED LIABILTY COMPANY
400 SEVENTH STREET, N.W.
WASHINGTON DC 20004

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
MURRAY et al. :
Application No. 10/207,882 : DECISION ON PETITION
Filed: July 31, 2008 :
Attorney Docket No. P67021US1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 31, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 31, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 1, 2007.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Phyllis Spivack at (571) 272-6051 or in her absence, the undersigned at 571-272-7099.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottoff

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IP LEGAL SERVICES
1500 EAST LANCASTER AVENUE, SUITE 200
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PAOLI PA 19301

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MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of :
Murray et al. :
Application No. 10/207,883 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. MASSANA 12 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 6, 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 Corrected Formal Drawings, (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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kazunaga Kobayashi, et al. :
Application No. 10/207,899 :
Filed: July 31, 2002 :
Atty Docket No. 225650US2 :

This is a decision on the petition, filed November 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 2874 for further processing of the request for continued examination under 37 CFR 1.114 filed November 10, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 21 2005

Schnader Harrisson Segal
& Lewis, LLP
1600 Market Street
Suite 3600
Philadelphia, PA 19103

In re application of : **DECISION ON PETITION**
Howard Yaruss, et al : **TO MAKE SPECIAL**
Application No. 10/207,935 : **(ACCELERATED**
Filed: July 29, 2002 : **EXAMINATION)**
For: COMPUTER SYSTEM FOR EXCHANGING INSURANCE INFORMATION RELATED TO A LOAN ON A PROPERTY

This is in response to the renewed petition filed on July 30, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 6/1/05

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FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

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JUL 23 2007

OFFICE OF PETITIONS

In re Application	:	
Saaski, et al.	:	DECISION ON APPLICATION FOR
Application No. 10/207,946	:	PATENT TERM ADJUSTMENT
Filed: July 30, 2002	:	
Attorney Docket No. BAES:021USC1	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.705(b)", filed January 23, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eighty-three (83) days to one hundred thirty-eighty (138) days.

The application for patent term adjustment is **DISMISSED**.

On October 24, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is eighty-three (83) days. On January 23, 2007, Applicant timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred thirty-eight (138) days.

[1] Applicants filed the application for patent term adjustment prior to paying the issue fee.

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eighty-three (83) days based on an adjustment for PTO delay of two hundred ninety-one (298) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicant's delays of twenty-six (26), ninety-four (94) and ninety-five (95) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b).

The Office mailed an action on June 19, 2003, setting a period for reply of one (1) month to specifically apply each limitation or element of copied claims 115-208 to the disclosure of the application. Applicant timely filed a reply on July 24, 2003, made timely by including a Certificate of Mailing dated July 21, 2003 (July 19, 2003 fell on a Saturday. See 37 CFR 1.7(a)). The Office then mailed an action in response on September 17, 2004, and was assessed PTO delay of two hundred ninety-eight (298) days.

However, Applicants argue that the action mailed on September 17, 2004, and not the action mailed on June 19, 2003, was the initial notification under 35 U.S.C. 132 that was required to be mailed within fourteen months. Applicants assert that the Office action mailed on June 19, 2003, was not a notification under 35 U.S.C. 132. Accordingly, applicants argue that the PTO should have been assessed three hundred fifty-three (353) days of delay for not mailing a first action until September 17, 2004.

Applicants' argument has been considered, but is not persuasive. The Office has set forth that certain notices and letters that are part of the pre-examination process are not notifications under 35 U.S.C. 132. However, actions issued as a result of examination are considered to be notifications under 35 U.S.C. 132.[2] Here, as the June 19, 2003 Office action was signed by the Examiner, it is concluded that this is an action issued as a result of examination.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **eighty-three (83) days** (298 days of PTO delay reduced by 215 (95+94+26) days of applicant delay).

---

[2] See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/07

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/207946** Patent No.: **7261008**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2856
Art Unit

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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
George N. Paradissis et al.
Application No. 10/207,968
Filed: July 31, 2002
Attorney Docket No. 21053-XXYY

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 September 27, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

A courtesy copy of this decision is being mailed to the first signing inventor. A courtesy copy is being mailed to the address noted in the request. If the attorneys with this firm desire to receive future communication concerning this application, the proper power of attorney documents should be submitted.

There are no outstanding Office actions at this time.

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- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: George N. Paradissis
433 Meadow Green Place
St. Louis, MO 63141

cc: Rita D. Vacca, Esq.
KV Pharmaceutical Company
2503 South Hanley Road
St. Louis, MO 63144-2555

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON DC 20005-3934

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of :
Peercy, Chaflin, and Kaulgud :
Application No.: 10/208,049 :
Filed: July 31, 2002 :
Attorney Docket No: 1193.00 :
For: SYSTEM AND METHOD FOR DECOUPLING THE USER INTERFACE AND APPLICATION WINDOW IN A GRAPHICS APPLICATION :

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 29, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 29, 2002, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63 and that the filing and claims fees were outstanding. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice.

In response thereto, petitioner filed the instant petition along with a declaration offered by Edward Yee. By the declaration of Mr. Yee, petitioner established that the complete application papers were forwarded to inventor Peercy, but that inventor Peercy has declined to join the prosecution of the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAIL

JUN 23 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of :
Aizawa TAKASHI, et al. :
Application No. 10/208,160 :
Filed: July 29, 2002 :
For: **SYSTEM FOR INSTALLING IMAGE SENSING PROGRAM** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.8(b)

This is a decision on the petition filed on January 27, 2006, requesting that the copy of the preliminary amendment (certificate of mailing dated August 8, 2002) filed with the instant petition be accorded a filing date of August 12, 2002. The petition is being treated under 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner states that the non-final Office action mailed July 28, 2005 was directed only to claim 1 which was canceled by a preliminary amendment filed August 8, 2002. Petitioner also states that the preliminary amendment filed August 8, 2002 added new claims and therefore requests a new, corrected Office action based on new claims 2-57 which were included in the preliminary amendment filed August 8, 2002.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

> "...If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension of time fee will be required to render a reply timely."

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

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

Petitioner has met the requirements above.

Accordingly, the petition is **GRANTED**.

The application is being returned to the examiner for new and appropriate action based on the new claims filed in the preliminary amendment filed August 12, 2002 (certificate of mailing dated August 8, 2002).

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
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MAY 17 2007

OFFICE OF PETITIONS

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

In re Application of :
James Andrew Canfield et al. :
Application No. 10/208,187 : DECISION ON PETITION
Filed: July 31, 2002 : TO WITHDRAW
Attorney Docket No. 06975-298001/Personaliz : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

OIPE IAP44
APR 02 2007
PATENT & TRADEMARK OFFICE

1 FW

Please type a plus sign (+) inside this box → ☐

PTO/SB/83 (2/00)
Approved for use through 10/31/02. OMB 0651-0035
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

Application Number	10/208,187
Filing Date	7/31/02
First Named Inventor	
Group Art Unit	
Examiner Name	
Attorney Docket Number	06975-298001

To: Assistant Commissioner for Patents
Washington, DC 20231

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

Mandatory withdrawal due to my employment by the United States Patent and Trademark Office beginning April 1, 2007.

1. ☑ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number → [ ]

OR

Place Customer Number Bar Code Label here

☐ Firm or Individual Name					
Address					
Address					
City		State		ZIP	
Country					
Telephone		Fax			

This request is enclosed in triplicate.

Name	Scott R. Boalick
Signature	
Date	March 30, 2007

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.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Atto[redacted]'s Docket No.: 06975-298001
Client's Ref. No.: Personalization 27

OIPE JC54
OCT 24 2002
PATENT & TRADEMARK OFFICE

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled IM CONVERSATION COUNTER AND INDICATOR, the specification of which:

[] is attached hereto.
[X] was filed on July 31, 2002 as Application Serial No. 10/208,187 and was amended on _____.
[] was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of any United States provisional application(s) listed below:

U.S. Serial No.	Filing Date	Status
60/376,181	April 30, 2002	Pending

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Serial No.	Filing Date	Status
N/A		

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
N/A			

Combined Declaration and Power of Attorney

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John F. Hayden, Reg. No. 37,640; Michael McKeon, Reg. No. 37,888; Linda Liu Kordziel, Reg. No. 39,732; William E. Booth, Reg. No. 28,933; Ruffin B. Cordell, Reg. No. 33,487; John W. Freeman, Reg. No. 29,066; Timothy A. French, Reg. No. 30,175; G. Roger Lee, Reg. No. 28,963; John B. Pegram, Reg. No. 25,198; Rene D. Tegtmeyer, Reg. No. 33,567; Charles C. Winchester, Reg. No. 21,040; William D. Hare, Reg. No. 44,739; James E. Mrose, Reg. No. 33,264; Lauren A. Degnan, Reg. No. 40,584; Andrew F. Bodendorf, Reg. No. 39,537; Diana DiBerardino, Reg. No. 45,653; W. Karl Renner, Reg. No. 41,265; Joseph F. Key, Reg. No. 44,827; Harold H. Fox, Reg. No. 41,498; Scott R. Boalick, Reg. No. 42,337; Joseph V. Colaianni, Jr., Reg. No. 39,948; Gregory A. Walters, Reg. No. 41,366; R. Whitney Winston, Reg. No. 44,432; Mark E. Wadrzyk, Reg. No. 45,187; Heather Morin, Reg. No. 37,336; Phyllis K. Kristal, Reg. No. 38,524; Benjamin D. Driscoll, Reg. No. 41,571; Thomas A. Rozylowicz, Reg. No. P-50,620; James R. Bramson; Reg. No. 41,632; and Alexander Franco, Reg. No. 45,753.

Address all telephone calls to W. KARL RENNER at telephone number (202) 783-5070.

Address all correspondence to W. KARL RENNER at:

FISH & RICHARDSON P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name of Inventor: JAMES ANDREW CANFIELD

Inventor's Signature: _____ Date: 10/14/02
Residence Address: Arlington, VA
Citizenship: United States of America
Post Office Address: 212 N. Emerson Street
Arlington, VA 22203

Full Name of Inventor: KENNETH CARBONE

Inventor's Signature: _____ Date: _____
Residence Address: Annandale, VA
Citizenship: United States of America
Post Office Address: 3712 Mount Airey Lane
Annandale, VA 22203

Combined Declaration and Power of Attorney

Full Name of Inventor: DAVID FAIRLIE COLBURN

Inventor's Signature: David Fairlie Colburn Date: 10/14/2002
Residence Address: Reston, VA
Citizenship: United States of America
Post Office Address: 10903 Equestrian Court
Reston, VA 20190

Full Name of Inventor: LINDA NOLS MYERS

Inventor's Signature: Date: 10/15/02
Residence Address: Purcellville, VA
Citizenship: United States of America
Post Office Address: 625 Wooden Bridge Drive
Purcellville, VA 20132

Full Name of Inventor: THOMAS E. VAN LENTEN

Inventor's Signature: Date: 10/14/02
Residence Address: Ashburn, VA
Citizenship: United States of America
Post Office Address: 21380 Scara Place
Ashburn, VA 20148

Full Name of Inventor: GREGORY ALAN WILLIS

Inventor's Signature: Date: 210402
Residence Address: Arlington, VA
Citizenship: United States of America
Post Office Address: 3202 N 19th St
Arlington VA 22201

Attorney's Docket No.: 06975-298001
Client's Ref. No.: Personalization 27

OIPE JC54 OCT 24 2002 PATENT & TRADEMARK OFFICE

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled IM CONVERSATION COUNTER AND INDICATOR, the specification of which:

[] is attached hereto.
[X] was filed on July 31, 2002 as Application Serial No. 10/208,187 and was amended on _____.
[] was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of any United States provisional application(s) listed below:

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60/376,181	April 30, 2002	Pending

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U.S. Serial No.	Filing Date	Status
N/A		

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
N/A			

Combined Declaration and Power of Attorney

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John F. Hayden, Reg. No. 37,640; Michael McKeon, Reg. No. 37,888; Linda Liu Kordziel, Reg. No. 39,732; William E. Booth, Reg. No. 28,933; Ruffin B. Cordell, Reg. No. 33,487; John W. Freeman, Reg. No. 29,066; Timothy A. French, Reg. No. 30,175; G. Roger Lee, Reg. No. 28,963; John B. Pegram, Reg. No. 25,198; Rene D. Tegtmeyer, Reg. No. 33,567; Charles C. Winchester, Reg. No. 21,040; William D. Hare, Reg. No. 44,739; James E. Mrose, Reg. No. 33,264; Lauren A. Degnan, Reg. No. 40,584; Andrew F. Bodendorf, Reg. No. 39,537; Diana DiBerardino, Reg. No. 45,653; W. Karl Renner, Reg. No. 41,265; Joseph F. Key, Reg. No. 44,827; Harold H. Fox, Reg. No. 41,498; Scott R. Boalick, Reg. No. 42,337; Joseph V. Colaianni, Jr., Reg. No. 39,948; Gregory A. Walters, Reg. No. 41,366; R. Whitney Winston, Reg. No. 44,432; Mark E. Wadrzyk, Reg. No. 45,187; Heather Morin, Reg. No. 37,336; Phyllis K. Kristal, Reg. No. 38,524; Benjamin D. Driscoll, Reg. No. 41,571; Thomas A. Rozylowicz, Reg. No. P-50,620; James R. Bramson; Reg. No. 41,632; and Alexander Franco, Reg. No. 45,753.

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Address all correspondence to W. KARL RENNER at:

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1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name of Inventor: JAMES ANDREW CANFIELD

Inventor's Signature: _____ Date: _____
Residence Address: Arlington, VA
Citizenship: United States of America
Post Office Address: 212 N. Emerson Street
Arlington, VA 22203

Full Name of Inventor: KENNETH CARBONE

Inventor's Signature: _____ Date: 10/14/02
Residence Address: Annandale, VA
Citizenship: United States of America
Post Office Address: 3712 Mount Airey Lane
Annandale, VA 22203

Combined Declaration and Power of Attorney

Full Name of Inventor: DAVID FAIRLIE COLBURN

Inventor's Signature: _____ Date: _____
Residence Address: Reston, VA
Citizenship: United States of America
Post Office Address: 10903 Equestrian Court
Reston, VA 20190

Full Name of Inventor: LINDA NOLS MYERS

Inventor's Signature: _____ Date: _____
Residence Address: Purcellville, VA
Citizenship: United States of America
Post Office Address: 625 Wooden Bridge Drive
Purcellville, VA 20132

Full Name of Inventor: THOMAS E. VAN LENTEN

Inventor's Signature: _____ Date: _____
Residence Address: Ashburn, VA
Citizenship: United States of America
Post Office Address: 21380 Scara Place
Ashburn, VA 20148

Full Name of Inventor: GREGORY ALAN WILLIS

Inventor's Signature: _____ Date: _____
Residence Address: Arlington, VA
Citizenship: United States of America
Post Office Address: 3202 N 19th St
Arlington VA 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Bib Data Sheet

CONFIRMATION NO. 2361

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/208,187	07/31/2002 RULE	345	2174	06975-298001 / Personaliz

APPLICANTS

James Andrew Canfield, Arlington, VA;
Kenneth Carbone, Annandale, VA;
David Fairlie Colburn, Reston, VA;
Linda Nols Myers, Purcellville, VA;
Thomas E. Van Lenten, Ashburn, VA;
Gregory Alan Willis, Arlington, VA;

**** CONTINUING DATA ***************************

This appln claims benefit of 60/376,181 04/30/2002

**** FOREIGN APPLICATIONS *********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 08/27/2002

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	VA	13	45	3

35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged _____ Examiner's Signature Initials

ADDRESS
26171

TITLE

IM conversation counter and indicator

FILING FEE RECEIVED	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:
1770	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

Day : Friday
Date: 5/11/2007

Time: 15:51:42

PALM INTRANET

Correspondence Address for 10/208187

Customer Number	Contact Information	Address
26171 Delivery Mode: PAPER	Telephone: (202)783-5070 Fax: (202)783-2331 E-Mail: No E-Mail Address	FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS MN 55440-1022

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign D

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Attorney Docket # Search

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POSZ LAW GROUP
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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JUN 13 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuo Gotou :
Application No. 10/208,194 :
Filed: July 31, 2002 :
Attorney Docket No. 02-083 :

This is a decision on the petition, filed June 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 1, 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 2834 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

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 30 2007

OFFICE OF PETITIONS

In re Application of :
Axel Spriestersbach, et al. :
Application No. 10/208,201 : DECISION ON PETITION
Filed: July 31, 2002 : TO WITHDRAW
Attorney Docket No. 13909-051001/ : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 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 Scott R. Boalick on behalf of himself.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARAMOPTECR INDUSTRIES, INC.
515 SHAKER ROAD
EAST LONGMEADOW MA 01028

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of
Dirk Pawlowski et al.
Application No. 10/208,218
Filed: July 30, 2002
Attorney Docket No. BJA307D

ON PETITION

This is a decision on the petition filed March 11, 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 February 3, 2005 for failure to timely pay the issue fee on or before February 2, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee in the amount of $700, petition fee in the amount of $750, publication fee in the amount of $300 and cost for 10 advance copies in the amount of $30, in accordance with 37 CFR 1.18, has been charged to deposit account no. 50-1402.

With respect to the address, 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.

---

[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)).

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division for processing 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

cc:
MCCARTER & ENGLISH LLP
CITY PLACE I
185 ASYLUM STREET
HARTFORD, CT 06103

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BAKER BOTTS LLP
PATENT DEPARTMENT
98 SAN JACINTO BOULEVARD, SUITE 1500
AUSTIN, TX 78701-4039

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
Erin M. Defosse :
Application No. 10/208,221 : DECISION GRANTING PETITION
Filed: July 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 06814.0213 :

This is a decision on the petition, filed May 25, 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 April 28, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2142 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\may9\208221.wpd

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

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PAPER NO. 9

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Sung Yong Chang, et al.
Application No. 10/208,270
Filed: July 29, 2002
Attorney Docket No. 1239-11 CIP II

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3732 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

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OFFICE OF PETITIONS

In re Application of :
Phillip Branch Chappell et al :
Application No. 10/208,274 : ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. 16007Z :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office letter mailed January 13, 2004. The Office letter set a period for reply of one (1) month or thirty (30) days (whichever is later) from the mail date of the Office letter. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 14, 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 1617.

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

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13445 Mandoli Drive
Los Altos Hills CA 94022

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Bhalla et al.	:	DECISION ON
Application No. 10/208,275	:	PETITION AND
Filed: July 30, 2002	:	NOTICE OF
Attorney Docket Number: AOS0101	:	ABANDONMENT

This Decision is in response to the "Petition to Enter the Above-referenced Case with Original Serial Number and Filing Date as Continuous Application", filed July 17, 2006. The petition is properly treated under 37 CFR 1.182.

The petition is **dismissed**.

Background

The above-identified application was filed July 30, 2002. A final Office action was mailed December 27, 2005. Applicant filed a response to the final Office action on February 21, 2006, however, the response failed to place the application in condition for allowance. Applicant was so notified in an Advisory action mailed March 15, 2006.

On March 27, 2006, Applicant filed a Utility Patent Application Tranbsmittal Form indicating thereon that he was filing a continuation application of the above-identified application, along with a preliminary amendment.

The Transmittal and preliminary amendment were processed by the Office of Initial Patent examination and a Notice of Incomplete Nonprovisional Application was mailed on April 17, 2006, noting that a filing date had NOT been accorded the application because the specification was missing.

The instant petition

In response to the Notice, Applicant files the instant petition and Request for Continued Examination ("RCE") Transmittal. Applicant provides that, in response to the Notice of Incomplete, applicant petitions "that the Continuation Prosecution Application (CPA) be entered as a Continuous Application assigned with the original serial number 10/208,275 accorded with the filing date of the Original Application on July 30, 20[0]2 for continuous prosecution and examination."

Analysis

Initially, it is noted that Applicant has filed a petition under 37 CFR 1.182. Applicant is advised that the fee for a petition under 37 CFR 1.182 is $400.00. Applicant has submitted $130.00 for this petition, and no other authorization to charge fees has been located among the application papers. Applicant has failed to provide the petition fee.

Moreover, it is apparent from the instant petition that Applicant intended to file a Request for Continued Examination in order to allow for "continuous prosecution and examination" of the above-identified application.

Abandonment of the application

Applicant is advised that the above-identified application is abandoned. The application became abandoned for failing to timely and properly reply to the final Office action mailed December 27, 2005. The office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a response to the final Office action on February 21, 2006, however, the response failed to place the application in condition for allowance. Applicant was so notified in an Advisory action mailed March 15, 2006. Having failed to file a complete and proper reply within the time period set forth in the Notice, the application became abandoned March 28, 2006[1].

In order to be able to file a RCE, applicant must first revive the application by filing a petition under 37 CFR 1.137(b).

---

[1] A review of the Fee Transmittal Form filed March 24, 2006 with the Utility Patent Application Transmittal Form reveals that Applicant indicated thereon that the fees, paid with a credit card, were application filing, examination and search fees, and additional claims fees. The office was unable to transfer the fees, that were expressly indicated on the forms, to extension of time fees. Thus the preliminary amendment filed on March 24, 2006 was untimely as a reply to the December 27, 2005 Office action.

The requirements for a grantable petition under 37 CFR 1.137(b) are as follows:

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 required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

Here, Applicant has filed a RCE, but has failed to include the fee. Applicant is further advised that the fee for filing a RCE is $790 ($395 for a small entity). Office records reveal that the fees filed on March 27, 2005 were refunded to applicant as indicated in the Notice of Termination of Proceedings under 37 CFR 1.53(e), mailed July 25, 2006. Applicant must submit the RCE filing fee.

Applicant is further advised that the fee for filing a petition 37 CFR 1.137(b) is $1500.00 ($750 for a small entity).

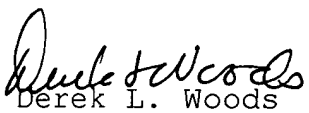
Further correspondence with respect to this matter should be addressed as follows:

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

By FAX: (571) 273-8300
Attn: Office of Petitions

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

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



Derek L. Woods
Attorney
Office of Petitions

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13445 Mandoli Drive
Los Altos, Hills CA 94022

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OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Bhalla et al.	:	
Application No. 10/208,275	:	ON PETITION
Filing Date: 07/30/2002	:	
Attorney Docket Number:	:	
AOS0101	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 14, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the final office action, mailed December 27, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a reply to the Office action on February 21, 2006; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 15, 2006/

On March 27, Applicant filed a Utility Patent Application Transmittal Form ("Transmittal"), indicating thereon that he was filing a continuation application of the above-identified application, along with a Preliminary Amendment.

The Transmittal and Preliminary Amendment were processed by the Office of Initial patent Examination ("OIPE"), and a Notice of Incomplete Nonpriovisional Application ("Notice") was mailed on April 17, 2006. The Notice informed Applicant that a filing date had NOT been accorded the application because the specification was missing.

The July 17, 2006 Petition

In response to the Notice, Applicant filed a petition on July 17, 2006 and included a Request for Continued Examination ("RCE") Transmittal. Applicant petitioned "That the Continuation Prosecution Application ("CPA") be entered as a Continuous Application assigned with the original serial number 10/208,275 accorded with the filing date of the Original Application on July 30, [2002] for continuous prosecution and examination."

The petition was dismissed in a Decision mailed August 16, 2006. Applicant was advised that the petition fee was $400 (Applicant had submitted $130). It was also noted that Applicant apparently intended to file a RCE.

Applicant was advised that the application was abandoned for failing to file a complete and proper reply to the December 27, 2005 Office action. Applicant was further advised to file a petition to revive the application was required prior to consideration of the RCE.

It was also noted that Applicant had filed an RCE, but had failed to include the RCE fee, and that the fee for filing the RCE was $790 ($395 for a small entity). Applicant was informed that the fees filed on March 27, 2005 were refunded to Applicant as indicated in the Notice of Termination Proceedings, mailed July 25, 2006. Applicant was informed that he "must submit the RCE filing fee." Decision at p.3.

The instant petition under 37 CFR 1.137(b)

Applicant files the instant petition and credit card payment of $400 (fee for petition under 37 CFR 1.182) and $750 (fee for petition under 37 CFR 1.137(b) and includes an authorization to charge any insufficient fee to deposit account 12-0001.

Applicant submitted $130 for the petition under 37 CFR 1.182 filed July 7, 2006. The $130 has been re-applied towards the RCE filing fee of $395, and an additional $265 has been charged to deposit account 12-0001 as authorized in the petition.

This application is being referred to Technology Center Art Unit 2891 for processing of the RCE, filed July 17, 2006, and re-filed September 14, 2006.

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

Derek L. Woods
Attorney
Office of Petitions

PTO/SB/83 (09-04)
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	10/208,288
Filing Date	7-30-2002
First Named Inventor	Patrick R. Connelly
Art Unit	
Examiner Name	
Attorney Docket Number	PRC-134

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 37282

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 as follows: The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule, to wit, CFR Sec. 10.66(b) and as such, withdrawal is mandatory pursuant to 37 CFR Sec. 10.40 (b)(2). There is no outstanding action from the USPTO with a reply due within 60 days.

Dismissed/Moot
See Revocation and new Power of Atty filed
12/7/05
CT 5/15/06

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Michael L. Weiner				
Address	Biomed Solutions LLC 150 Lucius Gordon Drive Suite 215				
City	West Henrietta	State	NY	Zip	14586
Country	United States				
Telephone	(585) 214-2432			Fax	(585) 424-6538
Signature					
Name	Howard J. Greenwald			Registration No.	24,247
Date	September 30, 2005			Telephone No.	(585) 387-0285

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 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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Paper No. 8

JOHN A. FORTKORT
JOHN A. FORTKORT P.C.
4512 COURT OF ST. JAMES
AUSTIN, TX 78730

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AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Li Ann Welz et al
Application No. 10/208,330
Filed: July 30, 2002
For: SIMPLIFICATION OF BALL ATTACH METHOD USING SUPER-SATURATED FINE CRYSTAL FLUX

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 30, 2003, requesting reconsideration of a decision mailed April 9, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Michael Tymianski	: DECISION ON REQUEST FOR
Patent Number	: 7595297	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/208,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **843** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Victor Fuk-Pong Man et al. :
Application No. 10/208,404 : DECISION ON PETITION
Filed: July 29, 2002 : TO WITHDRAW
Attorney Docket No. 163.1357USI1 : 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 22, 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 Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

Mail Date: 04/20/2010

Applicant	: Howard Green	: DECISION ON REQUEST FOR
Patent Number	: 7583681	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/208,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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Paper No. 7

McDermott, Will & Emery
28 State Street
Boston MA 02109

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of
Eugene A. DeCastro, Benjamin R. Johnson,
Eugene Phaneuf, and Timothy W. Piazza
Application No. 10/208,433
Filed: July 30, 2002
Attorney Docket No. 56280-024 (BNUL-121)
Title: HIGH POWER ULTRASONIC
TRANSDUCER WITH BROADBAND
FREQUENCY CHARACTERISTICS AT
ALL OVERTONES AND HARMONICS

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 4, 2003.

The above-identified application was filed on July 30, 2002, identifying Eugene A. DeCastro, Benjamin R. Johnson, Ehgene Phaneuf, and Timothy Piazza as joint inventors. On August 27,

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, the surcharge for its late filing, and substitute drawings. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, the surcharge associated with the late filing of an oath or declaration, drawings, a four-month extension of time to make timely this response[2], a declaration executed by the later three inventors, and a statement of facts executed by one of the signing joint inventors.

Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement, it has not been established that a complete copy of the application has been sent to the last known address of the non-signing inventor. While the declaration of facts asserts that the non-signing inventor refused to execute the declaration, it is noted that the declarant did not assert that the non-signing inventor was afforded the opportunity to review a complete copy of the application. This omission suggests that a complete copy was not provided.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. 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[3].

For these reasons, 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 1.47(a)."

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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2 The petition contains a certificate of mailing dated February 27, 2003.
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

4 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**
5 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
6 (703) 308-6916 or (703) 305-4257, Attn: Office of Petitions.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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www.uspto.gov

Paper No. 9

McDermott, Will & Emery
28 State Street
Boston MA 02109

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OFFICE OF PETITIONS

In re Application of
Eugene A. DeCastro, Benjamin R. Johnson,
Eugene Phaneuf, and Timothy W. Piazza
Application No. 10/208,433
Filed: July 30, 2002
Attorney Docket No. 56280-024 (BNUL-121)
Title: HIGH POWER ULTRASONIC TRANSDUCER WITH BROADBAND FREQUENCY CHARACTERISTICS AT ALL OVERTONES AND HARMONICS

DECISION NOTING JOINDER AND DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS MOOT

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed July 24, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on July 30, 2002, identifying Eugene A. DeCastro, Benjamin R. Johnson, Ehgene Phaneuf, and Timothy Piazza as joint inventors. On August 27, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

C.F.R. §1.63, the surcharge for its late filing, and substitute drawings. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, accompanied by a declaration executed by the later three inventors. This petition was dismissed via a decision mailed on July 7, 2003.

On July 24, 2003, petitioner submitted a request to withdraw the above-mentioned petition, along with a declaration executed by the previously non-signing joint inventor DeCastro.

This declaration has been reviewed and found in compliance with 37 §CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered 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 file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

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

Thomas B. Luebbering
HOVEY WILLIAMS LLP
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108

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APR 2 6 2006

OFFICE OF PETITIONS

In re Application of
Merlyn BROWN
Application No. 10/208,476
Filed: July 29, 2002
Attorney Docket No. 32780

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 21, 2005.

The request is **APPROVED**.

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

The request was signed by Thomas Luebbing on behalf of all attorneys of record. Applicant is advised that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Applicant is reminded that a final Office action was mailed on February 10, 2006. The period for reply continues to run from the date of that communication.

Telephone inquiries concerning this decision should be directed to BethAnne Dayoan at 571-272-3209.

BethAnne Dayoan
Petitions Examiner
Office of Petitions

cc: Merlyn Brown
3010 Carrington Lane
Suite 110
Lawrence, Kansas 66049

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Paper No. 5

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APR 0 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Steven M. Greenberg
AKERMAN SENTERFITT & EIDSON, P.A.
P.O. BOX 3188
West Palm Beach, FL 33402-3188

In re Application of:
Christopher W. DAY
Application No. 10/208,485
Filed: July 30, 2002
For: INTRUSION DETECTION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed November 04, 2002 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

The petition is **DENIED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by contributing to computer communications network. The declaration supporting the petition describes various concerns raised by individuals (e.g., Richard Clarke, Michael Vatis, etc.) to justify the instant application related to methods for countering terrorism. However, the claimed invention fails to indicate countering terrorism. Moreover, detecting network intrusions to prevent unauthorized personnel from accessing a network does

not equate to countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DENIED**. 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.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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td

Mailed: 5/20/05

In re application of :
Mielnik et al. : DECISION ON
Serial No. 10/208,490 : PETITION
Filed: July 30, 2002 :
For: LOW TEMPERATURE SANITIZATION OF HUMAN PATHOGENS FROM THE SURFACES OF FOOD AND FOOD PACKAGING

This is a decision on the PETITION UNDER 37 CFR 1.144 FOR WITHDRAWAL OF THE RESTRICTION REQUIREMENT in the Office action of November 8, 2004.

On June 21, 2004, a non-final office action containing a restriction requirement was mailed to Applicants. Applicants traversed the requirement in a response filed on September 17, 2004. The examiner made the requirement final in a final office action made November 8, 2004. Petitioner argues that the groups of claims are not distinct and that the claims are directed to method claims and means plus function apparatus claims.

On February 10, 2005 the instant petition under 37 CFR 1.144 was timely filed to formally request that the examiner withdraw the restriction requirement.

DECISION

Section 806.05 of the MPEP states:

806.05 Related Inventions
Where two or more related inventions are being claimed, the principal question to be determined in connection with a requirement to restrict or a rejection on the ground of double patenting is whether or not the inventions as claimed are distinct. If they are distinct, restriction may be proper. If they are not distinct, restriction is never proper. If nondistinct inventions are claimed in separate applications or patents, double patenting must be held, except where the additional applications were filed consonant with a requirement to restrict in a national application.
The various pairs of related inventions are noted in the following sections.

806.05(e) Process and Apparatus for Its Practice — Distinctness
In applications claiming inventions in different statutory categories, only one-way distinctness is generally needed to support a restriction requirement. See MPEP § 806.05(c).

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process.
If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed, rejoinder is required. See MPEP § 809.04.

Section 809.03 states:

809.03 Linking Claims
There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) inseparable therefrom and thus linking together the inventions otherwise divisible.
The most common types of linking claims which, if allowed, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
(A) genus claims linking species claims;
(B) a claim to the necessary process of making a product linking proper process and product claims;
(C) a claim to "means " for practicing a process linking proper apparatus and process claims; and
(D) a claim to the product linking a process of making and a use (process of using).

In the present application, there are two groups of claims. The first group of claims is directed towards a method. The second group is directed towards an apparatus for performing the method. It is noted that the apparatus claims are in "means plus function" format. This type of apparatus claim is defined by the MPEP as a linking claim. As per the sections above, these linking claims may not be restricted from the corresponding method claims. Accordingly, the instant restriction requirement is improper.

The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and prepare a new office action examining all of the pending claims.

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

Thomas E. Kocovsky, Jr.
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2518

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GERALD LEVY, ESQ.
PITNEY, HARDIN, KIPP & SZUCH LLP
7 TIMES SQUARE
NEW YORK, NY 10036-7311

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OFFICE OF PETITIONS

In re Application of
Michael J. McMahon, et al.
Application No. 10/208,494
Filed: July 30, 2002
Attorney Docket No. 769-236 CONT

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

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed July 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/631,179, as set forth in the Amendment filed concurrently with the instant petition.

The petition is **GRANTED.**

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

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

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

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

The instant pending application was filed on July 30, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an Amendment, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594.

This matter is being referred to Technology Center Art Unit 3721 for appropriate action on the amendment filed July 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

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

Attachment: Corrected Filing Receipt

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 6,810,751 :
Issued: 11/02/2004 : DECISION ON PETITION
Application Number: 10/208497 :
Filing Date: 07/29/2002 :
Attorney Docket Number: 02103-807001 :

This is a decision on the petition under 37 CFR 1.59(b), filed on February 27, 2007,[1] requesting that a patent purchase agreement submitted with a power of attorney be expunged.

The petition is **DISMISSED**.

On January 31, 2007, a power of attorney on behalf of the assignee and a Statement Under 37 CFR 3.73(b) were filed in the subject patent file.

Petitioner asserts that a patent purchase agreement was inadvertently submitted with the power of attorney, and that the patent purchase agreement contains confidential and proprietary information. Petitioner therefore seeks to have the patent purchase agreement expunged from the file.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment

[1] Although the petition fee was not paid until the submission of the paper entitled "Petition to Expunge Information" was filed on July 6, 2007, the paper containing a request to expunge the information in question, filed on February 27, 2007, contained authorization to charge counsel's deposit account for any required fees. Accordingly, the paper filed on February 27, 2007, is considered a proper petition.

specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The USPTO has the authority to act in patent applications, patents in which a request to reissue the patent has been filed, and patents in which a request to reexamine the patent have been filed. However, this application has issued as a patent and neither a request for reexamination nor to reissue the patent has been filed. Accordingly, the USPTO does not have jurisdiction to take action in this matter.

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 Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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Paper No. 6

Edward M. Livingston, Esq.
628 Ellen Dr.
P.O. Box 1599
Winter Park FL 32790

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Hudgins
Application No. 10/208,499
Filed: July 29, 2002
Attorney Docket No. 02-5062
For: BUMPER STICKER KIT AND METHOD

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO GRANT APPLICANT ORIGINAL FILING DATE AND FOR REFUND OF PETITION FEE," filed October 17, 2002 (certificate of mailing date October 15, 2002, requesting in effect withdrawal of the Notice of Incomplete Nonprovisional Application (Notice). The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on July 29, 2002. On August 30, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that the application deposited on July 29, 2002 had not been accorded a filing date because the papers filed on that date did not include drawings.[1]

Petitioner requests that the above-identified application be accorded a filing date of July 29, 2002 on the basis that 2 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on July 29, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing July 29, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 2 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 2 sheets of drawing figures were filed on July 29, 2002. MPEP 503. Accordingly, the request is **granted**.

Pursuant to petitioners' request the $130.00 petition fee submitted with the instant petition will be refunded by means of a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of July 29, 2002, using the 2 sheets of drawings figures that were submitted with the instant petition. Office records will be corrected to show that 2 sheets of drawings were present on filing.

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

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

[1] The Office should have mailed petitioner a Notice of Omitted Items because the application contains method claims. As such, drawings are not required for a filing date. Had the proper Notice been sent, the following analysis would still apply.

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PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of :
Robert E. Reed, JoAnn Burkholder, : DECISION ON PETITION
David C. Toms, Howard Glasgow, Jr. :
Application No. 10/208,504 :
Filed: July 30, 2002 :

This is a decision on the "Petition Under 37 CFR 1.182 to Correct Order of Inventorship", filed July 29, 2005.

The petition under 37 CFR 1.182 is **GRANTED.**

Petitioner has paid the petition fee under 37 CFR 1.182 and indicated the desired order of inventorship.

Records in the above-identified application have been changed to reflect that Robert E. Reed, is the first named inventor, JoAnn Burkholder is the second named inventor, David C. Toms is the third named inventor, and Howard Glasgow, Jr. is the fourth named inventor.

The petition fee of $400 required by 37 CFR 1.182 has been charged to Deposit Account No. 50-0220, as authorized.

The application file is being forwarded to Group Art Unit 2856 for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE: H. Williams

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/24/06

Paper No.: _____

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/208,504 Patent No.: 2040157

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

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

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

Please Look at Col. 20-24.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: Apparent printing errors 8/31/06

HEZRON WILLIAMS
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 2800

Hezron E. Williams — **SPE**

2856 — **Art Unit**

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Paul D. Bianco
Fleit Gibbons Gutman Bongini & Bianco PL
21355 East Dixie Highway
Suite 115
Miami, FL 33180

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,004,959 :
Issue Date: February 28, 2006 :
Application No. 10/208,510 : NOTICE
Filed: February 28, 2006 :
Attorney Docket No. BON_3837-4 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 28, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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Peter I. Bernstein
Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City NY 11530

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OFFICE OF PETITIONS

In re Application of :
Robert M. Umek et al. :
Application No. 10/208,526 : DECISION ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 22345 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provision of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL Paper No. 3

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York NY 10154-0053

In re Application of:
Dmitry Shushakov et al
Application No. 10/208,530
Filed: July 30, 2002
For: **HIGH SENSITIVITY, HIGH RESOLUTION DETECTION OF SIGNALS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed October 10, 2002.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition do not show how the technology of the instant application directly contributes to the countering of terrorism. The high sensitivity and high resolution of electron amplifier of applicant's invention do not counter terrorism directly and do not fall into the category of invention as outlined above.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York NY 10154-0053

MAILED

APR 1 6 2003

Technology Center 2600

In re Application of:
Dmitry Shushakov et al
Application No. 10/208,530
Filed: July 30, 2002
For: **HIGH SENSITIVITY, HIGH RESOLUTION DETECTION OF SIGNALS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Renewed Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed March 11, 2003, which is being treated as a request for reconsideration of the decision mailed January 13, 2003. The request for reconsideration does not require a fee.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicant's petition filed October 10, 2002 states:

"The patent specification indicates that the electron amplifier of the present invention provides exceptional sensitivity and high resolution, e.g. two orders of magnitude (100) higher than currently available devices and without the need for cryogenic cooling. ***Such characteristics would allow for the creation of portable instruments for detecting the presence of, for example, weapon-grade radioactive materials shielded by a lead case.***"

In the request for reconsideration filed March 11, 2003, petitioner cites the Background of the Invention and argues that the present invention is directed to signal detection and, more specifically, to high sensitivity detection of weak or low level signals that include low –level radiation particle signals associated with radiological dispersion devices, such as for example, "dirty bombs". Petitioner also cites disclosure to input signal 11, wherein:

"input signal 11 may be the primary optical or electrical signal to be measured or may be the output of a sensor that transducers, converts or transforms a primary signal (e.g., an acoustic, pressure or other mechanical signal; an uncharged particle/species; a charged particle/species or other electrical signal; a magnetic signal; an optical or other electromagnetic signal (e.g. x-ray)" (page 8, lines 2-7 of the application).

It is the alleged potential of the disclosed invention, or of characteristics of the disclosed invention ***which might be used to create instruments potentially capable of detecting dirty bombs*** that applicant feels allows this application to be made special.

Petitioner's arguments have been fully considered but are not deemed persuasive. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism, such as systems for detecting or identifying explosives. While a grantable petition is not limited to these examples, all of the examples provided clearly act to directly counter terrorism. The intent of the examples is that any such disclosed invention must clearly act to counter terrorism. The disclosure and claims of the instant applicant have been considered and there is no clear nexus

between the disclosed invention and applicant's assertions that detection of the disclosed incoming optical or electrical signals would in fact ***directly*** counter terrorism. In fact, neither the disclosure, claims or drawings of the invention are found to show they are related to countering terrorism. Furthermore, the indirect tie of a potential for this invention to detect dirty bombs as argued by petitioner is not seen as being sufficient to accord special status to this application. Otherwise, any type of radiation detector (including a simple x-ray machine for imaging the body) would be deemed to have a potential for 'countering terrorism'. For these reasons, the disclosed high sensitivity and high resolution of the electron amplifier of applicant's invention is not deemed to counter terrorism directly and does not fall into the category of invention as outlined above.

Accordingly, the Request for Reconsideration is **DENIED**.

Petitioner should note that petitions written in the alternative are not appropriate. As set forth in 37 CFR 1.4(c), "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." Should petitioner decide to petition this decision, a separate petition under 37 CFR 1.181(a)(3) should be filed.

The application file is being returned to the Technology Center's central files storage area to await action in its regular turn.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154- 0053

MAIL

NOV 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Dmitry Shushakov et al.
Application No. 10/208,530
Filed: July 30, 2002
For: HIGH SENSITIVITY, HIGH RESOLUTION DETECTION OF SIGNALS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition Requesting Review of the Group Director's Decision Denying Special Status Under 37 CFR 1.102(d) (Inventions for Countering Terrorism) filed June 13, 2003, which is being treated as a request for reconsideration of the previous decision.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. While a grantable petition is not limited to these examples, all of the examples provided clearly act to directly counter terrorism.

The exhibits of prior decisions on Petitions to Make Special submitted by applicants have no relevance to this petition. The disclosures of those patents are clearly directed to inventions for countering terrorism. This is not the case with the instant application whether there is no mention in the application of using applicants' invention for counter terrorism.

However, the newly provided statements that "the instant invention allows for (1) the detection of radiation signatures ***to discriminate between different types of radioactive sources***, which is key to the detection of a 'dirty bomb', and (2) ***the sensitivity necessary for detecting shielded radiation sources***" on page 9 of the renewed petition are deemed to satisfy the requirement of MPEP 708.02, XI by having a statement with the petition explaining how the invention contributes to countering terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Jin Ng
Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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JUL 25 2006

OFFICE OF PETITIONS

In re Application of :
Steven Carter et al :
Application No. 10/208,548 : DECISION ON PETITION
Filed: July 30, 2002 : TO WITHDRAW
Attorney Docket No. 517.058 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 6, 2005.

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

A review of the file record indicates that the power of attorney to Todd Mattingly has been revoked by the assignee of the patent application on July 18, 2005. 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/assignee or the current attorneys of record.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

conferee

cc:
BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/208,548	07/30/2002	Steven Carter	29934.34

CONFIRMATION NO. 4324

OC000000018274504

OC000000018274504

29637
BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON, TX 77056

Date Mailed: 03/14/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/18/2005.

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.

LORRAINE E WALDEN
3600 (571) 272-6629

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PTO/SB/81 (11-04)
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POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	10/208,548
Filing Date	July 30, 2002
First Named Inventor	Steven Carter
Title	Knowledge Base System
Art Unit	2171
Examiner Name	
Attorney Docket Number	517.058

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☒ Practitioners associated with the Customer Number: 29637

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

☐	Firm or Individual Name				
	Address				
	City		State		Zip
	Country				
	Telephone		Fax		

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) — see power 7-9-02

SIGNATURE of Applicant or Assignee of Record

Signature	T.C. Grythe	Date	6/15/05
Name	T.C. GRYTHE	Telephone	832-463-3000
Title and Company	PRESIDENT & CEO ODS-PETRODATA		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 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.

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	2

Application Number	10/208,548
Filing Date	July 30, 2002
First Named Inventor	Steven Carter
Art Unit	2171
Examiner Name	
Attorney Docket Number	517.058

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☒ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Buskop Law Group (Associated with Customer Number: 29637)		
Signature	Christian Heausler		
Printed name	Christian Heausler		
Date	7/18/2005	Reg. No.	50,771

CERTIFICATE OF TRANSMISSION/MAILING

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

Signature	Christian Heausler		
Typed or printed name	Christian Heausler	Date	July 18, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OIPE JC10 APR 06 2005 PATENT & TRADEMARK OFFICE

04-07-05

Patent / Docket No. 29934.34
Customer No. 000027683

217

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steven Carter, et al. §
§ Group Art Unit: 2171
Serial No.: 10/208,548 §
§
Filed: July 30, 2002 § Examiner: Unknown
§

For: A KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET

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

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD
(37 C.F.R. § 10.40)

The attorneys listed below have been appointed to prosecute and transact business in the above-referenced case:

Rita M. Irani (Reg. No. 31,028); Todd Mattingly (Reg. No. 40,298); David L. McCombs (Reg. No. 32,271); Michael J. Balconi-Lamica (Reg. No. 34,291); Jeffrey M. Becker (Reg. No. 35,442); James R. Bell (Reg. No. 26,528); Timothy F. Bliss (Reg. No. 50,925); Randall C. Brown (Reg. No. 31,213); L. Howard Chen (Reg. No. 46,615); Randall E. Colson (Reg. No. 40,566); Michael A. Davis, Jr. (Reg. No. 35,488); Ruben C. DeLeon (Reg. No. 37,812); Andrew S. Ehmke (Reg. No. 50,271); Brian J. Hubbard (Reg. No. 45,873); Warren B. Kice (Reg. No. 22,732); Christopher P. Kosh (Reg. No. 42,760); J. Andrew Lowes (Reg. No. 40,706); John Montgomery (Reg. No. 31,124); Bill R. Naifeh (Reg. No. 44,962); Gloria Norberg (Reg. No. 36,706); and David M. O'Dell (Reg. No. 42,044).

On behalf of the above-listed attorneys, I respectfully request that the above-listed attorneys be granted permission to withdraw from all further responsibility in this case in accordance with 37 C.F.R. § 1.36.

The basis for the request for withdrawal is 37 C.F.R. § 10.40(b) section 4, namely, the client informed us that our services were no longer needed.

Status of this Application: Published; awaiting Official Action from the PTO

All papers and property concerning this application have been delivered to the new counsel identified above.

Respectfully submitted,

Todd Mattingly, Registration No. 40,298

Date: 4/6/05

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Direct Phone: 713-547-2301
Direct Fax: 214-200-0853
File: 29934.34
H-541696_1.DOC

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
on April 6, 2005

Stacy Lanier

USPTO JC171 DEC 09 2002 PATENT & TRADEMARK OFFICE

PATENT DOCKET NO.: 29934.34

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Steven Carter et al.	§	Group Art Unit: 2171
Serial No. 10/208,548	§	Examiner: Unknown
Filed: July 30, 2002	§	
For: A KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET	§	

POWER OF ATTORNEY FOR PATENT APPLICATION

As a representative of the Assignee, OneOffshore, Inc., a Texas corporation, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Rita M. Irani (Reg. No. 31,028); Todd Mattingly (Reg. No. 40,298); David L. McCombs (Reg. No. 32,271); Michael J. Balconi-Lamica (Reg. No. 34,291); Jeffrey M. Becker (Reg. No. 35,442); James R. Bell (Reg. No. 26,528); Timothy F. Bliss (Reg. No. 50,925); Randall C. Brown (Reg. No. 31,213); L. Howard Chen (Reg. No. 46,615); Randall E. Colson (Reg. No. 40,566); Michael A. Davis, Jr. (Reg. No. 35,488); Ruben C. DeLeon (Reg. No. 37,812); Andrew S. Ehmke (Reg. No. 50,271); Brian J. Hubbard (Reg. No. 45,873); Warren B. Kice (Reg. No. 22,732); Christopher P. Kosh (Reg. No. 42,760); J. Andrew Lowes (Reg. No. 40,706); John Montgomery (Reg. No. 31,124); Bill R. Naifeh (Reg. No. 44,962); Gloria Norberg (Reg. No. 36,706); and David M. O'Dell (Reg. No. 42,044).

Please address all correspondence and telephone calls regarding this application to:

Rita M. Irani
Attorney for Applicants
Haynes and Boone, LLP
1000 Louisiana, Suite 4300
Houston, Texas 77002-5012
(713) 547-2416 - Phone
(713) 236-5596 – Fax

The undersigned is the representative for the Assignee of the entire right, title, and interest in the patent application identified above. A copy of the assignment or other documents in the chain of title are attached.

Please Note

Don't have proof that it wasn't filed.

The undersigned (whose title is supplied below) is authorized to act on behalf of the Assignee.

OneOffshore, Inc.

September 26, 2002
Date

By: PCGrymes
Per-Christian Grymes, CEO

H-356275_1.DOC

OIPE JC171
DEC 0 9 2002
PATENT & TRADEMARK OFFICE

12-10-02

#3 MP

RTA

Attorney / Docket No. 29934.34
Customer No. 000027684

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Steven Carter et al.

Serial No. 10/208,548

Filed: July 30, 2002

Group Art Unit:

Examiner: Unknown

For: KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET

TRANSMITTAL

Box Missing Parts
Commissioner For Patents
Washington D.C. 20231

Sir:

Enclosed are the following regarding the above-identified patent application:

1. Preliminary Amendment;
2. The return copy of the Notice to File Missing Parts of Provisional Application Filing Date Granted;
3. Inventors Declaration for Patent Application;
4. Power of Attorney for Patent Application;
5. Check in the amount of $130.00 for the surcharge fee for delayed filing of the Declaration;
6. Return Postcard; and
7. This Transmittal.

The Commissioner is herby authorized to charge payment of any further fees associated with any of the papers submitted herewith or to credit any overpayment to Deposit Account No. 08-1394, Order no. 29934.34.

Respectfully submitted,

Rita M. Irani
Reg. No. 31,028

Date: 12/9/02

HAYNES AND BOONE, LLP
1000 Louisisana, Suite 4300
Houston, Texas 77002-5012
Telephone: 713-547-2416
Facsimile: 713-547-5596
File: 29934.34

H-381549_1.DOC

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SANDRA FANCHER
Name

Sandra Fancher (Signature)

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Express Mail Number

December 9, 2002
Date

Day : Monday
Date: 7/24/2006

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Time: 11:51:30

Application Number Information

Application Number: **10/208548**
Assignments
Filing or 371(c) Date: **07/30/2002**
Effective Date: **07/30/2002**
Application Received: **07/31/2002**
Pat. Num./Pub. Num: **/20030074391**
Issue Date: **00/00/0000**
Date of Abandonment: **00/00/0000**
Attorney Docket Number: **29934.34**
Status: **30 /DOCKETED NEW CASE - READY FOR EXAMINATION** Status Date: **02/24/2003**
Confirmation Number: **4324**
Title of Invention: **KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET**

Examiner Number: **74686 / JEANTY, ROMAIN**
Group Art Unit: **3623**
Class/Subclass: **705/010.000**
Lost Case: **NO**
Interference Number:
Unmatched Petition: **NO**
L&R Code: Secrecy Code:**1**
Third Level Review: **NO**
Oral Hearing: **NO**

IFW IMAGE
Waiting for Response Desc.
Prior Art Filed
Prior Art Filed
Secrecy Order: **NO**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location
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10208548ZB	28C1	06/13/2005	No Charge to Location	No Charge to Name	NGUYEN,HUY	JEF/00/A 79

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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OIPE JC171 DEC 09 2002 PATENT & TRADEMARK OFFICE

#13

PATENT / DOCKET NO.: 29934.34

INVENTOR'S DECLARATION FOR PATENT APPLICATION

As below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names;

We believe we are the original, first and sole joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled

A KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET

the specification of which: (check one)

_____ is attached hereto.

__X__ was filed on July 30, 2002
under Attorney's Docket Number 29934.34
as Application Serial No. 10/208,548
and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

We hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

60/308,745	July 30, 2001
(Application Number)	(Filing Date)
60/317,214	September 5, 2001
(Application Number)	(Filing Date)

PATENT / DOCKET NO.: 29934.34

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign applications for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
n/a			

FULL NAME OF INVENTOR: Steven Carter

INVENTOR'S SIGNATURE: _____ DATED: Aug 16

RESIDENCE: 20102 Treasures Oak Court
Katy, Texas 77450

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Stuart Cochrane

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Tullynessle Steading
Tullynessle, Alford
Aberdeenshire AB33 8QR Scotland

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Ryan Isherwood

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 5080 Fieldwood
Houston, Texas 77056

CITIZENSHIP: United States of America

PATENT / DOCKET NO.: 29934.34

FULL NAME OF INVENTOR: Jeremy Lindsay

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Flat 2, 26 Hatter Street
Bury St. Edmunds
Suffolk, England

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Mark Bouzek

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 4222 Terrace Pines
Kingwood, Texas 77345

CITIZENSHIP: United States of America

H-356280_1.DOC

OIPE JC171 DEC 09 2002 PATENT & TRADEMARK OFFICE

PATENT / DOCKET NO.: 29934.34

INVENTOR'S DECLARATION FOR PATENT APPLICATION

As below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names;

We believe we are the original, first and sole joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled

A KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET

the specification of which: (check one)

_____ is attached hereto.

__X__ was filed on July 30, 2002
under Attorney's Docket Number 29934.34
as Application Serial No. 10/208,548
and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

We hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

60/308,745	July 30, 2001
(Application Number)	(Filing Date)
60/317,214	September 5, 2001
(Application Number)	(Filing Date)

PATENT / DOCKET NO.: 29934.34

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign applications for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
n/a			

FULL NAME OF INVENTOR: Steven Carter

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 20102 Treasures Oak Court
Katy, Texas 77450

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Stuart Cochrane

INVENTOR'S SIGNATURE: _____ DATED: 22/8/02

RESIDENCE: Tullynessle Steading
Tullynessle, Alford
Aberdeenshire AB33 8QR Scotland

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Ryan Isherwood

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 5080 Fieldwood
Houston, Texas 77056

CITIZENSHIP: United States of America

PATENT / DOCKET NO.: 29934.34

FULL NAME OF INVENTOR: Jeremy Lindsay

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Flat 2, 26 Hatter Street
Bury St. Edmunds
Suffolk, England

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Mark Bouzek

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 4222 Terrace Pines
Kingwood, Texas 77345

CITIZENSHIP: United States of America

H-356280_1.DOC

OIPE JC171
DEC 0 9 2002
PATENT & TRADEMARK OFFICE

PATENT / DOCKET NO.: 29934.34

INVENTOR'S DECLARATION FOR PATENT APPLICATION

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_X_ was filed on July 30, 2002
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as Application Serial No. 10/208,548
and was amended on _____ (if applicable).

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PATENT / DOCKET NO.: 29934.34

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Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
n/a			

FULL NAME OF INVENTOR: Steven Carter

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 20102 Treasures Oak Court
Katy, Texas 77450

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Stuart Cochrane

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Tullynessle Steading
Tullynessle, Alford
Aberdeenshire AB33 8QR Scotland

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Ryan Isherwood

INVENTOR'S SIGNATURE: _____ DATED: 8/17/02

RESIDENCE: 5080 Fieldwood
Houston, Texas 77056

CITIZENSHIP: United States of America

PATENT / DOCKET NO.: 29934.34

FULL NAME OF INVENTOR: Jeremy Lindsay

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Flat 2, 26 Hatter Street
Bury St. Edmunds
Suffolk, England

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Mark Bouzek

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 4222 Terrace Pines
Kingwood, Texas 77345

CITIZENSHIP: United States of America

H-356280_1.DOC

OIPE
DEC 0 9 2002
PATENT & TRADEMARK OFFICE

PATENT / DOCKET NO.: 29934.34

INVENTOR'S DECLARATION FOR PATENT APPLICATION

As below named inventors, we hereby declare that:

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the specification of which: (check one)

_____ is attached hereto

__X__ was filed on July 30, 2002
under Attorney's Docket Number 29934.34
as Application Serial No. 10/208,548
and was amended on _____ (if applicable).

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(Application Number)	(Filing Date)
60/317,214	September 5, 2001
(Application Number)	(Filing Date)

PATENT / DOCKET NO.: 29934.34

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Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
n/a			

FULL NAME OF INVENTOR: Steven Carter

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 20102 Treasures Oak Court
Katy, Texas 77450

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Stuart Cochrane

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Tullynessle Steading
Tullynessle, Alford
Aberdeenshire AB33 8QR Scotland

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Ryan Isherwood

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 5080 Fieldwood
Houston, Texas 77056

CITIZENSHIP: United States of America

PATENT / DOCKET NO.: 29934.34

FULL NAME OF INVENTOR: Jeremy Lindsay

INVENTOR'S SIGNATURE: J. Lindsay DATED: 6 Dec 2002

RESIDENCE: Flat 2, 26 Hatter Street
Bury St. Edmunds
Suffolk, England

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Mark Bouzek

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 4222 Terrace Pines
Kingwood, Texas 77345

CITIZENSHIP: United States of America

H-356280_1.DOC

DEC. 9. 2002 11:54AM NO. 1615 P. 2

OIPE JC171 DEC 0 9 2002 PATENT & TRADEMARK OFFICE

PATENT / DOCKET NO.: 29934.34

INVENTOR'S DECLARATION FOR PATENT APPLICATION

As below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names;

We believe we are the original, first and sole joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled

A KNOWLEDGE BASE SYSTEM FOR AN EQUIPMENT MARKET

the specification of which: (check one)

_____ is attached hereto.

_X_ was filed on July 30, 2002
under Attorney's Docket Number 29934.34
as Application Serial No. 10/208,548
and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

We hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

60/308,745	July 30, 2001
(Application Number)	(Filing Date)
60/317,214	September 5, 2001
(Application Number)	(Filing Date)

PATENT / DOCKET NO.: 29916.34

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign applications for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed
n/a			

FULL NAME OF INVENTOR: Steven Cutter

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 20102 Treasures Oak Court
Katy, Texas 77450

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Stuart Cochrane

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Tullynessle Steading
Tullynessle, Alford
Aberdeenshire AB33 8QR Scotland

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Ryan Isherwood

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: 5080 Fieldwood
Houston, Texas 77056

CITIZENSHIP: United States of America

FULL NAME OF INVENTOR: Jeremy Limsay

INVENTOR'S SIGNATURE: _____ DATED: _____

RESIDENCE: Flat 2, 26 Hatter Street
Bury St. Edmunds
Suffolk, England

CITIZENSHIP: United Kingdom

FULL NAME OF INVENTOR: Mark Bourek

INVENTOR'S SIGNATURE: [signature] DATED: Dec 9, 2002

RESIDENCE: 4222 Terrace Pines
Kingwood, Texas 77345

CITIZENSHIP: United States of America

H-355280_1.DOC

DEC. 9. 2002 11:54AM NO. 1615 P. 4

Day : Monday
Date: 7/24/2006

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Time: 11:51:55

Content Information for 10/208548

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PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

Appln Info | **Contents** | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

Date	Status	Code	Description
04/06/2005		PET.	PETITION ENTERED
03/14/2006		PA..	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSO(
07/18/2005		LET.	MISCELLANEOUS INCOMING LETTER
03/13/2006		C.AD	CORRESPONDENCE ADDRESS CHANGE
12/13/2005		LET.	MISCELLANEOUS INCOMING LETTER
09/30/2004		TSSCOMP	IFW TSS PROCESSING BY TECH CENTER COMPLETE
03/21/2003		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
02/28/2003		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
02/24/2003	30	DOCK	CASE DOCKETED TO EXAMINER IN GAU
12/09/2002		A.PE	PRELIMINARY AMENDMENT
01/01/2003		TI1050	TRANSFER INQUIRY TO GAU
12/27/2002	20	OIPE	APPLICATION DISPATCHED FROM OIPE
12/27/2002		COMP	APPLICATION IS NOW COMPLETE
12/09/2002		ADDFLFEE	ADDITIONAL APPLICATION FILING FEES
		OATHDECL	A STATEMENT BY ONE OR MORE INVENTORS SATISFYIN

12/09/2002			115, OATH OF THE APPLIC
10/08/2002		INCD	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DA
08/26/2002		SCAN	IFW SCAN & PACR AUTO SECURITY REVIEW
07/30/2002	19	IEXX	INITIAL EXAM TEAM NN

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Inventor Information for 10/208548

Inventor Name	City	State/Country
CARTER, STEVEN	KATY	TEXAS
COCHRANE, STUART	ALFORD	UNITED KINGDOM
ISHERWOOD, RYAN	HOUSTON	TEXAS
LINDSAY, JEREMY	SUFFOLK	UNITED KINGDOM
BOUZEK, MARK	KINGWOOD	TEXAS

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Day : Monday
Date: 7/24/2006

PALM INTRANET

Time: 11:52:26

Attorney/Agent Information for 10/208548

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
BUSKOP, WENDY	32202 (Attorney)	(713)403-7411
YUEN, RICHARD	L0278 (Limited Recognition)	(281)385-9201

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Day : Monday
Date: 7/24/2006

PALM INTRANET

Time: 11:52:33

Correspondence Address for 10/208548

Customer Number	Contact Information	Address
29637	Telephone: (713) 40-3 74 Fax: No Fax # E-Mail: No E-Mail Address	BUSKOP LAW GROUP, P.C. 1776 YORKTOWN SUITE 550 HOUSTON TX 77056

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign

Search Another: Application# [ ] Search **or Patent#** [ ] Search

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Attorney Docket # [ ] Search

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Customer's Attorney/Agent Search Result

Customer# 29637 Customer's Applications
BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON, TX 77056

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number	Attorney/Agent Address
BUSKOP, WENDY	32202 Attorney's Applications	(713)403-7411	BUSKOP LAW GRP 1776 YORKTOWN STREET, SUITE 550 HOUSTON, TX 77056
YUEN, RICHARD	L0278	(281)385-9201	BUSKOP LAW GROUP 9007 GAYLORD STREET, #26 HOUSTON, TX 77024

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Attorney's/Agent's Last Name **First Name**

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102268059

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

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 10-29-02
OneOffshore, Inc.

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment ☐ Merger
☐ Security Agreement ☒ Change of Name
☐ Other_____

Execution Date: August 5, 2002

2. Name and address of receiving party(ies)

Name: ODS Petrodata, Inc.

Internal Address: _____

Street Address: 3200 Wilcrest, Suite 170

City: Houston State: TX Zip: 77042

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:_____

A. Patent Application No.(s) 10/208,548

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Rita M. Irani

Internal Address:_____

Street Address: 1000 Louisiana, Suite 4300

City: Houston State: TX Zip: 77002

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41).....$ 40.00

☒ Enclosed

☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

10/31/2002 DBYRNE 00000140 10208548
01 FC:8021 40.00 OP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Rita M. Irani
Name of Person Signing

Signature

10/29/02
Date

Total number of pages including cover sheet, attachments, and documents: 4

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

H372020

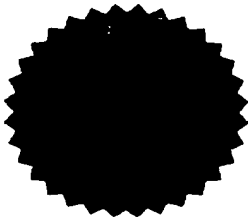
DOCKET NO.: 29934.34

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "ONEOFFSHORE, INC.", CHANGING ITS NAME FROM "ONEOFFSHORE, INC." TO "ODS-PETRODATA INC.", FILED IN THIS OFFICE ON THE FIFTH DAY OF AUGUST, A.D. 2002, AT 1:01 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3226228 8100

020496091

AUTHENTICATION: 1920598

DATE: 08-05-02

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 01:01 PM 08/05/2002
020496091 - 3226228

FOURTH AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF ONEOFFSHORE, INC.

Pursuant to the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL"), OneOffshore, Inc., a corporation organized and existing under and by virtue of the DGCL (the "Corporation"), does hereby certify as follows:

1. The name of the Corporation is OneOffshore, Inc.

2. The Corporation's Certificate of Incorporation was filed with the Secretary of State of Delaware on May 23, 2000, restated on June 30, 2000, amended and restated on January 16, 2001, amended and restated on August 2, 2001, and amended on May 21, 2002.

3. This Fourth Amended and Restated Certificate of Incorporation amends and restates the Certificate of Incorporation, as amended and restated to date, and has been duly adopted in accordance with Sections 242 and 245 of the DGCL.

4. The Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

FIRST: The name of the Corporation is ODS-Petrodata Inc.

SECOND: The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, Corporation Trust Center, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The total number of shares of capital stock that the Corporation shall have the authority to issue is 1,000 shares of Common Stock with a par value of $0.001 per share.

FIFTH: The number of directors of the Corporation shall be fixed in the manner provided in the Bylaws of the Corporation, and until changed in the manner provided in the Bylaws shall be one.

SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation shall have the power to adopt, amend or repeal the Bylaws of the Corporation.

SEVENTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

EIGHTH: A director of the Corporation shall not, to the fullest extent permitted by the Delaware General Corporation Law as the same exists or may hereafter be amended, be liable to the Corporation or its stockholders for monetary damages for breach of his or her fiduciary duty to the Corporation or its stockholders.

IN WITNESS WHEREOF, ONEOFFSHORE, INC. has caused this Fourth Amended and Restated Certificate of Incorporation to be executed, signed and acknowledged by its President, who states under penalties of perjury that the facts herein are true this 5th day of August, 2002.

ONEOFFSHORE, INC.

By: _____
J. Isaac Eploy, President

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUSK OP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON, TX 77056

COPY MAILED

DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Steven Carter et al :
Application No. 10/208,548 : DECISION ON PETITION
Filed: July 30, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. 517.058 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed August 24, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

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 complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3623 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

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

COPY MAILED

APR 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Burke et al.
Application No. 10/208,551
Filed: July 30, 2002
Attorney Docket No. 600.1232

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 21, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed September 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 13, 2003. A Notice of Abandonment was mailed on April 6, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

KATTEN MUCHIN ZAVIS ROSENMAN
Attention: Teddy C. Scott
Suite 1600
525 West Monroe Street
Chicago IL 60661-3693

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
John Campbell, Pamela Frank	:	
Meghan Hawkes, Shannon Lobin	:	
Cary Miller and Zhen Yang	:	DECISION ON
Application No. 10/208,560	:	PETITION
Filed: July 29, 2002	:	
Atty Docket No. 215105.01100	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a), filed December 1, 2006. This petition is properly treated as a petition under § 1.183[1] for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67.

The petition is **GRANTED**.

On June 5, 2006, the Office mailed a final Office action, which required applicants, among other things, to file a supplemental oath or declaration. The declaration originally executed by all of the inventors was found by the examiner to be defective. This Notice set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a).

In response, applicants filed a supplemental declaration executed by joint inventors Campbell, Frank, Hawkes, Lobin and Miller on behalf of themselves and on behalf of non-signing joint inventor Zhen Yang; and the instant petition for

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the re-execution of another oath or declaration.

acceptance of the declaration. This response was made timely by an accompanying petition (and fee) for extension of time for response within the third month.

By declaration of patent attorney Andrew Bateman, petitioners have shown that inventor Yang cannot be reached to execute the supplemental declaration. A complete copy of the application papers was forwarded to inventor Yang at her last known address in Canada. However, multiple efforts to reach the inventor to sign the supplemental declaration at her last known address were unsuccessful. It was thought that she may have returned to China in 2002. It is noted that inventor Yang signed the original declaration. Under the circumstances, it is found that petitioner has made diligent efforts to locate inventor Yang[2]. The petition also includes the petition fee of $400 (for filing of a petition under § 1.183) and a statement of the last known address of inventor Yang.

In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by all of the joint inventors is appropriate.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[2] If this were a petition under § 1.47(a), the undersigned would likely request additional efforts to locate inventor Yang at any forwarding address or at any address uncovered via an Internet search.

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

NEEDLE & ROSENBERG
THE CANDLER BUILDING
127 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1811

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Larry Cosenza et al
Application No. 10/208,576
Filed: July 30, 2002
Attorney Docket No. 21085.0028US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

---

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

The instant application was filed on July 30, 2002 and was pending at the time of filing of the instant petition.

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

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

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

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

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

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

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

The instant petition does not comply with item (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed July 7, 2003 fails to state the relationship of the nonprovisional applications to the instant application.

Additionally, a reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on July 7, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a renewed petition and a substitute amendment to correct the above matters 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

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

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

UNITED STATES 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: June 6, 2007

In re Application of COSENZA ET AL.
Appl No.: 10/208,576
Filed: July 30, 2002
For: USE OF DYE TO DISTINGUISH SALT AND PROTEIN CRYSTALS UNDER MICROCRYSTALLIZATION CONDITIONS

DECISION GRANTING PETITION
37 CFR 1.84

This is a decision on the petition filed May 8, 2007 requesting the acceptance of color photographs into the above-identified application.

On May 8, 2007, the present petition and authorization to charge counsel's deposit account for the $130.00 petition fee were filed. Petitioners request that color photographs be accepted in order to fulfill the requirement for formal drawings. Petitioners argue that the color photographs are necessary to properly depict the results of scientific experiments which inherently contain color. Three (3) copies of the color photographs were previously submitted. An amendment to the specification was filed along with the petition.

37 CFR § 1.84(b)(2) states that color photographs will be accepted in utility patent applications only after granting a petition explaining why the color photographs are necessary. The petition must include the following:

(i) The appropriate fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings; and

(iii) The specification must contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

A review of the record reveals that petitioners have fulfilled the requirements of 37 CFR 1.84. The petition is granted. The color photographs have been accepted and will be forwarded to the Official Draftsperson for formal review.

Jill A. Warden
Supervisory Patent Examiner
Art Unit 1743
Patent Examining Group 1700

BINGHAM McCUTCHEN, LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

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)
6702638	2004-03-09	10208593	2002-07-30	Custom2

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	/s/	Date (YYYY-MM-DD)	2008-12-15
Name	Howard R. Popper	Registration Number	19208

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. 6702638
Issue Date: March 9,2004
Application No. 10208593
Filed: July 30,2002
Attorney Docket No. DUPONT 11

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 15,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: MAR - 4 2003

UR

Paper No. 5

In re application of
Pankaj K. Mehrotra
Serial No. 10/208,597
Filed: July 30, 2002
For: CERAMIC BODY REINFORCED WITH COARSE SILICON CARBIDE WHISKERS AND METHOD FOR MAKING THE SAME

DECISION ON PETITION

This is a decision on the SUBMISSION OF FORMAL DRAWINGS AND PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(b)(2), filed July 30, 2002 to permit color photographs since (1) the fee as required by 37 CFR 1.17(h) has been authorized, (2) three sets of the color photographs have been filed, (3) the specification includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation is provided stating why color photographs are necessary. The color photographs are for Figures 2, 3, 4 and 5.
A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **GRANTED**.

Upendra Roy
Special Program Examiner
Technology Center 1700

Mr. John J. Prizzi
Kennametal Inc.
P.O. Box 231
Latrobe, PA 15650

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Michael N. Haynes
1341 Huntersfield Close
Keswick VA 22947

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Rodney Tyler	:	
Application No. 10/208,631	:	LETTER REGARDING
Filed: July 29, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1030-005	:	

This letter is in response to the REQUEST FOR CORRECTION filed January 29, 2007, pursuant to applicant's duty of candor and good faith. Applicants disclose that the mailing date of the BPAI decision used in the patent term adjustment determination is incorrect.

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED.

The Office has updated the PAIR screen to reflect that the correct period of adjustment for successful appellate review is five hundred (500) days. In view thereof, the current Patent Term Adjustment determination is five hundred thirty-one (531) days. A copy of the updated PAIR screen, showing this determination, is enclosed.

Preliminarily, it is noted that the patent issuing from this application appears to have been withdrawn from issue by the Office. Yet, a period of adjustment of 75 days was entered based on the Office taking in excess of three years to issue the patent. Such a period should not be entered until the actual issue date of the patent is known. Upon re-issuance, the period of adjustment associated with the Office taking in excess of 3 years to issue the patent should be revised.

With respect to this 75 day calculation, patentee is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the instant request for correction, on January 5, 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 460 days. Applicant discloses that the period of delay caused by successful appellate review should run to the correct mailing date of the Final Decision by the Board of Patent Appeals and Interferences as stamped on the Decision, January 13, 2006, not January 17, 2006 as shown in PAIR.

Applicant is correct. A review of the BPAI decision confirms that the correct date of the BPAI decision is January 13, 2006. Moreover, this date is shown correctly in the Image File Wrapper of the application, which is the Official record. Accordingly, the period of adjustment delay caused by successful appellate review, pursuant to 35 U.S.C. 154(b)(1)C(iii) and 37 CFR 1.702(e) is 500 days, not 504 days (e.g., beginning on September 1, 2004 and ending on January 13, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred fifty-six (456) days. (After the mailing of the notice of allowance the period of adjustment of 75 days was prematurely entered).

This decision serves as correction of the PALM record. At this juncture, no further correction to the PALM entry showing a January 17, 2006 date for the BPAI decision is warranted. Given the correctness of the Official IFW record and the effectiveness of this decision to correct PTA, there is no efficacy in undertaking the administrative burden of correcting the BPAI decision date in PALM. (As the undersigned understands, such a correction would require removing and re-entering all subsequent entries. Further each entry would have to be removed and re-

entered by the component that made that entry and each entry must be acted on in sequential order). At the same time, such an undertaking would unnecessarily further delay the issuance of the patent.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 10/208631			
Application Filing Date:	07/29/2002	PTO Delay (PTO):	585
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	50
Post-Issue Petitions:	0	Total PTA (days):	531
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	04/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		504	
87	04/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	500		
86.5	02/14/2007	PTA 36 MONTHS	75		
86	03/06/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
85	02/06/2007	EXPORT TO FINAL DATA CAPTURE			
84	01/29/2007	PETITION ENTERED			
83	01/26/2007	FINISHED INITIAL DATA CAPTURE			
82	01/26/2007	DISPATCH TO FDC			
81	01/17/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	01/09/2007	ISSUE FEE PAYMENT VERIFIED			
79	01/08/2007	EXPORT TO INITIAL DATA CAPTURE			
77	01/05/2007	MAIL NOTICE OF ALLOWANCE			
76	01/03/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	01/03/2007	ISSUE REVISION COMPLETED			
74	12/28/2006	NOTICE OF ALLOWABILITY			
73	12/21/2006	DATE FORWARDED TO EXAMINER			
72	12/07/2006	AMENDMENT AFTER FINAL REJECTION			
71	11/01/2006	MAIL FINAL REJECTION (PTOL - 326)			
70	10/30/2006	FINAL REJECTION			
69	08/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	08/15/2006	REFERENCE CAPTURE ON IDS			
67	08/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	65
66	08/19/2006	DATE FORWARDED TO EXAMINER			

65	08/15/2006	RESPONSE AFTER NON-FINAL ACTION			
64	07/06/2006	MAIL NON-FINAL REJECTION			
63	06/30/2006	NON-FINAL REJECTION			
62	01/17/2006	MAIL BPAI DECISION ON APPEAL - REVERSED	504		36
61	01/13/2006	BPAI DECISION - EXAMINER REVERSED			
60	12/09/2005	WAIVER OF HEARING BY APPELLANT			
59	11/18/2005	NOTIFICATION OF APPEAL HEARING			
58	09/20/2005	DOCKETING NOTICE MAILED TO APPELLANT			
56	09/20/2005	ASSIGNMENT OF APPEAL NUMBER			
55	08/17/2005	APPEAL AWAITING BPAI DOCKETING			
54	08/01/2005	MAIL SUPPLEMENTAL EXAMINER'S ANSWER			
53	07/28/2005	2ND OR SUBSEQUENT EXAMINER'S ANSWER TO APPEAL BRIEF			
50	07/20/2005	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
49	06/15/2005	APPEAL AWAITING BPAI DOCKETING			
48	06/08/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
47	06/06/2005	REPLY BRIEF NOTED BY EXAMINER			
46	04/04/2005	REQUEST FOR ORAL HEARING			
45	04/01/2005	DATE FORWARDED TO EXAMINER			
44	03/30/2005	REPLY BRIEF FILED			
43	02/04/2005	MAIL EXAMINER'S ANSWER			
42	01/10/2005	EXAMINER'S ANSWER TO APPEAL BRIEF			
41	10/28/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
40	11/08/2004	DATE FORWARDED TO EXAMINER			
39	10/28/2004	APPEAL BRIEF FILED			
38	10/22/2004	MISCELLANEOUS INCOMING LETTER			
37	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	09/01/2004	NOTICE OF APPEAL FILED		14	28
35	09/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	08/25/2004	MAIL ADVISORY ACTION (PTOL - 303)			
33	08/19/2004	ADVISORY ACTION (PTOL-303)			
32	07/28/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
31	08/11/2004	DATE FORWARDED TO EXAMINER			
30	07/28/2004	AMENDMENT AFTER FINAL REJECTION			

29	07/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
28	05/18/2004	MAIL FINAL REJECTION (PTOL - 326)	3		22
27	05/14/2004	FINAL REJECTION			
26	02/20/2004	REFERENCE CAPTURE ON IDS			
25	02/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		36	22
24	03/02/2004	IFW AMENDED CASE PROCESSING COMPLETE			
23	03/02/2004	DATE FORWARDED TO EXAMINER			
22	01/15/2004	RESPONSE AFTER NON-FINAL ACTION			
21	12/30/2003	MAIL NON-FINAL REJECTION			
20	12/29/2003	NON-FINAL REJECTION			
19	10/18/2003	DATE FORWARDED TO EXAMINER			
18	10/08/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
17	10/02/2003	MAIL RESTRICTION REQUIREMENT	3		-1
16	10/01/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
15	10/10/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	05/20/2003	TRANSFER INQUIRY TO GAU			
12	05/14/2003	TRANSFER INQUIRY TO GAU			
11	05/14/2003	TRANSFER INQUIRY TO GAU			
10	03/07/2003	TRANSFER INQUIRY TO GAU			
9	11/07/2002	TRANSFER INQUIRY TO GAU			
8	10/29/2002	APPLICATION DISPATCHED FROM OIPE			
7	10/28/2002	APPLICATION IS NOW COMPLETE			
6	10/10/2002	ADDITIONAL APPLICATION FILING FEES			
5	10/10/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	10/25/2002	CORRESPONDENCE ADDRESS CHANGE			
3	08/21/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	08/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/208636

DATE : 1/19/06

Paper No.: —

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction on Patent No. 6937102 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:

SPE

2817
Art Unit

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Alexandria, VA 22313-1450
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HAMILTON BROOK SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Eric W. Overstrom et al :
Application No. 10/208,653 : DECISION ON PETITION
Filed: July 29, 2002 :
Attorney Docket No. 1322.2002-000 :

This is a decision on the petition under 37 CFR 1.182, filed, November 10, 2008, to change the name of the second named inventor "Daniela Fischer" to – Daniela Fischer Russell --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/208,653	07/29/2002	1632	998	1322.2002-000	40	12

CONFIRMATION NO. 2976

CORRECTED FILING RECEIPT

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Date Mailed: 12/17/2008

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)

Eric W. Overstrom, Grafton, MA;
Daniela Fischer Russell, Guelph, CANADA;

Assignment For Published Patent Application

The Trustees of Tufts College, Medford, MA

Power of Attorney:
Antoinette Giugliano--42582

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/208,653**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Nuclear transfer embryo formation method

Preliminary Class

800

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Eric W. Overstrom	: DECISION ON REQUEST FOR
Patent Number	: 7612250	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/208,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **563** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 13

Robert W. Schlipper
GPO Box 11464
Hong Kong
HONG KONG

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of :
Robert W. Schlipper :
Application No. 10/208,704 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 3, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight November 26, 2003.

In response to the final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, and a response to the final Office action.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3676.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No. 10

Robert W. Schlipper
GPO Box 11464
Hong Kong,
HONG KONG

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APR 15 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of
Robert W. Schlipper
Application No. 10/208,704
Filed: July 30, 2002
Attorney Docket No. N/A

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (2) above.

As to item (1), the application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed August 26, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) under 37 CFR 114 or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Accordingly, this application cannot be revived until the required reply has been submitted. A courtesy copy of the final Office action mailed August 26, 2003, is enclosed with this decision.

As to item (2), it is acknowledged that, on April 1, 2004, petitioner submitted with the instant petition $655 for the petition fee. However, effective October 1, 2003, the small entity unintentional petition to revive fee was increased from $650 to $665. Therefore, a balance of $10 is due before revival of this application can be effected.

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
2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By Fax: Attn: Office of Petitions
(703) 872-9306

Any questions concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Courtesy copy of final Office action mailed August 26, 2003

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ROBERT W SCHLIPPER
GPO BOX 11464
HONG KONG HK
HONG KONG

In re Application of
Robert W. Schlipper :
Application No. 10/208,704 : DECISION ON
Filed: July 30, 2002 : PETITION
Title: Security Luggage Bag :

This is in response to the petition, filed January 25, 2006, to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on September 13, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on December 16, 2005. A Notice of Abandonment was mailed on January 23, 2006.

With the instant petition, petitioner paid the petition fee together with the issue and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 16 2004

Paper No. 8

In re Application of :
Benjamin W. Quaintance :
Application No. 10/208,706 : DECISION ON PETITION
Filed: July 25, 2002 :
Attorney Docket No. 57094-C :

This is a decision on the petition filed on August 2, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the final Office action dated November 3, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply and a copy a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on December 4, 2003. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated December 3, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is December 4, 2003, with a certificate of mailing date of December 3, 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

Dennis H. Lambert & Associates
7000 View Park Drive
Burke, VA 22015

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FEB 19 2008

In re Application of :
Quaintance :
Application No. 10/208,706 : DECISION
Filed: 25 July, 2002 :
Attorney Docket No. 57084-C :

This is a decision on the petition filed on 16 February, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTE: any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 February, 2006, with reply due absent an extension of time on or before 7 May, 2006;

- the application went abandoned by operation of law after midnight 7 May, 2006;
- the Office mailed the Notice of Abandonment on 15 December, 2006;
- on 16 February, 2007, Petitioner submitted the instant petition with fee, the reply in the form of an amendment, and made the statement of unintentional delay—however, it is noted that Petitioner was not Counsel of record at the time the instant application went abandoned and so is not in a position to make the statement of unintentional delay, which must be made by Counsel of record at the time of the abandonment or by the Applicant/Inventor or Assignee.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and–where appropriate—a terminal disclaimer and fee.

As indicated above, Petitioner appears not to have satisfied the statement/showing requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: 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.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LOVELAND OH 45140

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Quaintance :
Application No. 10/208,706 : DECISION
Filed: 25 July, 2002 :
Attorney Docket No. 57084-C :

This is a decision on the petition filed on 19 August, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 February, 2006, with reply due absent an extension of time on or before 7 May, 2006;
- the application went abandoned by operation of law after midnight 7 May, 2006;
- the Office mailed the Notice of Abandonment on 15 December, 2006;
- on 16 February, 2007, Petitioner submitted a petition with fee, the reply in the form of an amendment, and made the statement of unintentional delay—however, it was noted on review that materials of record suggested that Petitioner might not have been Counsel of

record at the time the instant application went abandoned and might not have been in a position to make the statement of unintentional delay—for clarification of the matter the petition was dismissed on 19 February, 2008;

- Petitioner filed a petition (with request and fee for extension of time) on 19 August, 2008, and averred that he was Counsel with the Assignee at the time of abandonment—information that is appreciated because it was not revealed in the Office review of records at the time of the dismissal. Thus, present now are the petition, fee, reply in the form of an amendment and statement of unintentional delay.

It is noted that when 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, the Office may treat such a statement as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *In the event that such an inquiry has not been made, a Petitioner* ***must*** *make such an inquiry—and 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 C.F.R. §1.137(b) was unintentional, a Petitioner* ***must*** *notify the Office.*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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[1] See 37 C.F.R. §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).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[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.

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.[4]))

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 3781 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] 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.

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 09, 2007

TO SPE OF : ART UNIT 1649 10/208731

SUBJECT : Request for Certificate of Correction on Patent No.: 7045675 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☑ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

All Changes except for Claim 9 (col. 108, line 32) are approved.
In Claim 9 (col. 108, line 32), "A cell" should be -- An isolated transgenic cell or non-human transgenic cell --.

M

Christina Chan
Acting **SPE**

1649
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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JUL 0 9 2008

OFFICE OF PETITIONS

In re	:
Dua, et al.	: DECISION ON REQUEST
Application No. 10/208,736	: FOR RECONSIDERATION OF
Filed: July 29, 2002	: PATENT TERM ADJUSTMENT
Patent No. 7,118,600	: UNDER 37 C.F.R. §1.705(d)
Issued: October 10, 2006	:

This letter is in response to the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed December 11, 2006[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**. Patentees are give **two (2) months** to respond to this decision. No extensions of time under 37 CFR 1.136(a) may be obtained.

On October 10, 2006, the above-identified application matured into U.S. Patent No. 7,118,600. The patent issued with a Patent Term Adjustment of two hundred fifty-four (254) days (438 days of PTO delay and 184 days of applicant delay).

The Office determined a patent term adjustment of two hundred fifty-four (254) days based on an adjustment for PTO delay of two hundred seventy-five (275) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), two (2) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), and one hundred sixty-one (161) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. 1.703(b),

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[1] The request was timely in accordance with 37 C.F.R. §1.705(d). See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704. December 10, 2006 fell on a Sunday. See 37 C.F.R. § 1.7(a).

reduced by forty-six (46), ninety-nine (99), thirty-three (33), two (2), and four (4) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Patentees state that an additional PTO delay of 438 days should have been accorded due to the Office's failure to issue the patent within three years of filing.

Patentees arguments are not persuasive. The patent issued three years and 438 days after the application filing date. However, Patentees are advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). 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). In this instance, the 438 days of Office delay for taking in excess of three years to issue the patent overlaps with the periods of adjustment pursuant to 1.702(a)(1) and (2), totaling 277 days, accorded during the pendency of the application. Accordingly, a period of adjustment of 161 days (438 - 277) was entered for Office delay pursuant to 1.702(b).

In view thereof, the correct determination of PTA at the time of issuance is two hundred fifty-four (254) days.

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

February 24, 2010

Patent No.: 7,118,600 B2
Applicant : Kulwinders S. Dua, et al.
Issued : October 10, 2006
For : **PROSTHESIS HAVING A SLEEVE VALVE**

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 Rules 1.322.

Respecting the alleged errors on the title page, page 2, right column, line 14, replace "5,647,843" with --5,647,834--. Inspection of the application reveals that the patent number reference is printed in accordance with the record in the Patent and Trademark, as passed through issue by examiner of record. The examiner notated on the 1449 dated 09-29-2003 the correct patent number that corresponds to the patentee's name and filing date shown on the form. The applicant listed the incorrect patent number 5,647,843 and examiner corrected the patent number to read --5,647,834. Therefore no correction is in order at this time in this matter.

Further correspondence concerning this matter should be filed and directed to:

U.S. Department of Commerce
Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Corrections Branch

For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Aki et al. : DECISION ON APPLICATION
Application No. 10/208,738 : FOR
Filed: August 1, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No.
01197.0226-02000 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER-POST GRANT)," filed September 15, 2008. Applicants request that the patent term adjustment of four hundred and fifty two (452) days be adjusted to a determination of three hundred and eighty-four (384) days.

The application for patent term adjustment (PTA) is **GRANTED-IN PART**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is days is three hundred and seventy one (370) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The Office will *sua sponte* issue a certificate of correction reflecting the new determination.

Applicants have thirty (30) days to respond to the certificate of correction. After the thirty day time period has expired, the Office will publish the certificate of correction. No extensions of time under 37 CFR 1.136 will be granted.

On February 12, 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 452 days. On July 15, 2008 the above application issued as patent number 7,399,864. On September 15, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 9 days for the filing of an Information Disclosure Statement (IDS) on April 10, 2086.

Applicants argue that the IDS was not filed as a supplemental paper, rather it was filed to correct an examiner's error. In that, the IDSs' submitted throughout prosecution were properly filed, without copies of the documents. The examiner improperly returned the IDS as non-compliant. After the error was brought to the examiner's attention, the IDS was refiled on April 10, 2008 for the examiner's consideration. The examiner considered the IDS on April 19, 2009. Applicants were charged with a 9 day delay, however, the delay was caused solely from the examiner's oversight and the 9 days should not be charged.

Applicants also argue that a 77- day delay was included from the day of the grant of the suspension on January 25, 2007 to the day the suspension ended on March 7, 2007.

Applicants state that the application is not subject to a terminal disclaimer.

Applicant's argument as to the IDS has been considered, and found persuasive for the following reasons. The Office finds that the applicants attempted to have this matter addressed prior to the notice of allowance and is not the first attempt to have the IDS acknowledged. Accordingly, the Office does not deem this paper submission as a reduction pursuant to 37 CFR 1.704(c)(10) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The request for acknowledgment was attempted prior to the notice of allowance and the Office failed to address such concern at that time and accordingly, applicant resubmitted such request after the mailing of the notice of allowance. Applicants availed themselves of opportunities to have the matter resolved prior to the mailing of the notice of allowance.

---

[1] The patent issued on July 15, 2008.

The appellants good faith and candor assertion as to the their own failure to engage pursuant to 37 CFR 1.704(c)(1) has been considered and deemed persuasive to the extent herein indicated. Applicant requested suspension of the application on December 20, 2006 with the filing of an RCE and the Office approved the request for a three month suspension in a notice of suspension mailed to applicants on January 25, 2007. Accordingly, the suspension terminated on March 20,2007. The request for suspension amounted to an applicant delay of ninety-one (91) days, rather than 77 days asserted by applicant. See 37 CFR 1.702(a)(1). The reduction began on December 20, 2006 and ended on March 20, 2007.

In view thereof, the determination of the patent term adjustment is three hundred and seventy (370) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo at 571-272-8150 or the undersigned at (571) 272-7757.

/Kery Fries/

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy
Enclosure: Copy of adjusted PALM calculation

Day : Tuesday
Date: 11/3/2009

PALM INTRANET

Time: 19:29:14

PTA Calculations for Application: 10/208738			
Application Filing Date:	08/01/2002	PTO Delay (PTO):	571
Issue Date of Patent:	07/15/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	119
Post-Issue Petitions:	0	Total PTA (days):	370
PTO Delay Adjustment:	-82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	11/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	9		
116	11/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
105.5	06/25/2008	PTA 36 MONTHS			
105	07/15/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
104	05/28/2008	EXPORT TO FINAL DATA CAPTURE			
103	05/27/2008	DISPATCH TO FDC			
102	05/27/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
101	04/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
100	04/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
99	04/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	04/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	04/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
96	05/23/2008	ISSUE FEE PAYMENT VERIFIED			
95	05/23/2008	ISSUE FEE PAYMENT RECEIVED			
94	04/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	04/18/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
92	04/16/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
91	04/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

90	04/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	04/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	04/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		9	93
87	04/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	03/11/2008	EXPORT TO INITIAL DATA CAPTURE			
84	03/10/2008	MAIL NOTICE OF ALLOWANCE			
83	02/12/2008	ISSUE REVISION COMPLETED			
82	02/12/2008	DOCUMENT VERIFICATION			
81	02/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	02/12/2008	NOTICE OF ALLOWABILITY			
75	12/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	01/09/2008	DATE FORWARDED TO EXAMINER			
72	12/21/2007	RESPONSE AFTER NON-FINAL ACTION			
71	12/21/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
70	12/21/2007	REFERENCE CAPTURE ON IDS			
69	12/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	12/21/2007	MISCELLANEOUS INCOMING LETTER			
67	12/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	09/25/2007	MAIL NON-FINAL REJECTION			
65	09/21/2007	NON-FINAL REJECTION			
64	08/01/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	04/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	08/01/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	08/08/2007	DATE FORWARDED TO EXAMINER			
60	08/08/2007	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
59	07/12/2007	MISCELLANEOUS INCOMING LETTER			
58.7	04/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

58	04/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	01/25/2007	MAIL LETTER SUSPENDING PROSECUTION AT APPLICANT'S REQUEST			
56	01/24/2007	LETTER OF SUSPENSION - APPLICANT INITIATED			
55	01/23/2007	DATE FORWARDED TO EXAMINER			
54	12/20/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	01/23/2007	DATE FORWARDED TO EXAMINER			
52	12/20/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	01/23/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	12/20/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	12/06/2006	FINISHED INITIAL DATA CAPTURE			
48	12/04/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
47	11/27/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
46	09/25/2006	EXPORT TO INITIAL DATA CAPTURE			
45	09/22/2006	MAIL NOTICE OF ALLOWANCE	571		32
44	09/21/2006	ISSUE REVISION COMPLETED			
43	09/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	09/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
41	09/21/2006	NOTICE OF ALLOWABILITY			
40	08/10/2006	DATE FORWARDED TO EXAMINER			
39	06/20/2006	AMENDMENT AFTER BRIEF			
36	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
34	10/29/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	11/30/2004	DATE FORWARDED TO EXAMINER			
32	10/29/2004	APPEAL BRIEF FILED			
31	06/10/2003	REFERENCE CAPTURE ON IDS			
30	09/01/2004	NOTICE OF APPEAL FILED			
29	06/01/2004	MAIL FINAL REJECTION (PTOL - 326)			
28	05/28/2004	FINAL REJECTION			
27	04/30/2004	DATE FORWARDED TO EXAMINER			
26	04/27/2004	AMENDMENT AFTER FINAL REJECTION			

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,399,864 B2	
DATED	:	July 15, 2008	**DRAFT**
INVENTOR(S)	:	Aki 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 (452) days

Delete the phrase "by 452 days" and insert – by 370 days--

25	04/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	03/09/2004	MAIL FINAL REJECTION (PTOL - 326)			
23	03/08/2004	FINAL REJECTION			
22	12/08/2003	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
21	01/06/2004	IFW AMENDED CASE PROCESSING COMPLETE			
20	01/06/2004	DATE FORWARDED TO EXAMINER			
19	12/08/2003	RESPONSE AFTER NON-FINAL ACTION		89	15
18	12/08/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	06/16/2003	PRELIMINARY AMENDMENT			
16.7	06/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/10/2003	MAIL NON-FINAL REJECTION			
14	06/10/2003	NON-FINAL REJECTION			
13.7	01/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	04/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	01/16/2003	PRELIMINARY AMENDMENT			
10.7	11/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	01/10/2003	APPLICATION DISPATCHED FROM OIPE			
7	01/10/2003	APPLICATION IS NOW COMPLETE			
5	12/24/2002	ADDITIONAL APPLICATION FILING FEES		21	3
4	12/24/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	09/03/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	08/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2002	INITIAL EXAM TEAM NN			

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070118

DATE : January 18, 2007

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,630,590

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Thomas C. McKenzie, Ph.D. **Art Unit** 1625

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. U.S. 6,630,590

APPLICATION NO.: 10/208,740

ISSUE DATE: October 7, 2003

INVENTORS: Shinji AKI et al.

It is hereby certified that an error or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the specification under "Cross-Reference to Related Application:"
Col. 1, lines 8-10, should be replaced with:
--This application is a continuation-in-part application of U.S. Serial No. 09/869,264 (now abandoned), which is the national stage application of International Application No. PCT/JP01/03803, filed May 2, 2001, the contents of which are all incorporated herein by reference.--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVW2-C-2
PLANO, TX 75024

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Turina et al.
Application No. 10/208,767
Filed: August 1, 2002
Attorney Docket No. P06375-US2

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 28, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 9, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 10, 2002.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

Mao Zhang
5578 SPUR CT.
Fontana, CA 92336

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of :
Mao Zhang :
Application No. 10/208,799 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. n/a :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 27, 2003

The application file is being forwarded to Technology Center AU 3617 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTOR'S OFFICE

OCT 24 2006

TECHNOLOGY CENTER 3600

Mao Zhang
5578 SPUR CT
Fontana, CA 92336

In re Application of ZHANG, MAO
Appl. No.: 10/208,799
Filed: August 01, 2002
For: Type Cargo Submarine with Air-Charge Cargo Hold

DECISION ON PETITON FOR SUPERVISORY REVIEW
37 CFR 1.181

This is a decision on the petition filed August 04, 2006 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of withdrawal of the Final Rejection of June 14, 2006.

The petition is **Dismissed**.

On June 14, 2006, a Final Rejection was mailed to applicant containing the same rejection that was set forth in the Non-Final Rejection of January 24, 2006. No new ground of rejection was presented in the Final Rejection of June 14, 2006, and in paragraph 4 of that Office action, the examiner responded to all of applicant's substantive arguments. As set forth in MPEP 706.07(c):

> "Any question as to prematureness of a final rejection should be raised, if at all, while the application is still pending before the primary examiner. This is purely a question of practice, wholly distinct from the tenability of the rejection" (emphasis added).

Applicant's arguments in the petition do not allege that the Final Rejection contained a new ground of rejection or failed to answer any substantive argument. Furthermore, applicant's arguments do not allege any defect in practice, but are solely directed to arguing the tenability of the rejection under 35 USC 102, and the differing interpretation of claim terms between the examiner and applicant. As set forth in MPEP 1201:

> "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 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 matter appealable to the Board" (emphasis added).

Since there is no allegation of impropriety of practice by the examiner in the Final Rejection of June 14, 2006, all of applicant's arguments in the petition are directed towards the issue of improper denial of patent claims because of prior art, the Final Rejection of June 14, 2006 was a proper Final Rejection according to MPEP 706.07(a) and was not premature. Accordingly, applicant is not entitled to the relief requested.

Given applicant's Pro Se status, it is suggested that applicant file an appeal to the Board of Appeals as set forth in MPEP 1200 if applicant wishes to pursue the issue of the tenability of the examiner's rejection under 35 USC 102. **Applicant is reminded that the period for response continues to run 3 months from the date of the Final Rejection mailed July 14, 2006.** Accordingly, any response to the Final Rejection or Notice of Appeal not already filed will need to be accompanied by the appropriate extension of time.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Ajay Vasudeva, at (571) 272-6689.

Kathy Matecki

for John Love
Director, Technology Center 3600

SJM: 10/16/2006
SJM

UNITED STATES 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
1300 I Street, NW
Washington, DC 20005-3315

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Brent Modzelewski, et al. :
Application No. 10/208,878 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. 02-879-A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A "Notice of Allowance and Issue Fee Due" was mailed to applicant on November 24, 2003, which set a three-month shortened statutory period for reply. Since the issue fee was not timely paid, the application became abandoned on February 25, 2004.

The Office acknowledges receipt of the issue fee, which was submitted with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Kristin A. Blais	:	
Application No. 10/208,974	:	DECISION ON PETITION
Filed: July 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 064749.0137	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 7, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $770 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The patented file is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Michael T. Taylor et al :
Application No. 10/208,976 : NOTICE
Filed: July 30, 2002 :
Attorney Docket No. 020048-002551US :

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 1744.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KATE H. MURASHIGE
MORRISON AND FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Patent No. 6,987,102	:	
Bridger, et al.	:	DECISION FOR REQUEST
Issue Date : January 17, 2006	:	FOR RECONSIDERATION
Application No. 10/209,001	:	OF PATENT TERM
Filed: July 30, 2002	:	ADJUSTMENT
Attorney Docket No. 391442005600	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed February 17, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from three hundred fifty-seven days (357) to five hundred twenty-eight days (528).

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On January 17, 2006, the above-identified application matured into U.S. Patent No. 6,987,102, with a revised patent term of 357 days. The instant request for reconsideration filed February 17, 2006, was timely filed within two months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

A review of the record confirms that 357 days were entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(b). This is the correct period of adjustment for the delay. It is noted that the instant patent issued 3 years and 172 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the

application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 145(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the patent term should be adjusted by 357 days because a total of 172 days overlapped.

In view thereof, the patent term adjustment of 357 days indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries regarding this decision may directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR - 9 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of :
Louis Garneau :
Application No. 10/209,003 : DECISION ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. 15920-1US :

This is a decision on the petition filed by facsimile transmission on July 14, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated December 3, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because on February 26, 2004, petitioner filed a timely and proper reply to the Office letter in question. A review of the application file shows that the reply alleged to have been filed on February 26, 2004 is in fact on record in the Image File Wrapper (IFW) application file. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The IFW application is being referred to the Head Supervisory Applications Examiner for Technology Center 3700 for entry of the reply filed on February 26, 2004. Thereafter, the IFW application will be referred to the examiner for appropriate action.

PETITION GRANTED

E. R. Kazenske, Director
Technology Center 3700

Ogilvy Renault
1981 McGill College Avenue
Suite 1600
Montreal (Quebec)
Canada, H3A 2Y3

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

STEVENS LAW GROUP
P.O.BOX 1667
SAN JOSE CA 95109

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MAY 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,099,584 :
Issued: August 29, 2006 :
Application No. 10/209,079 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. RAZA-01400/RZMI-PO202-US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: KEVIN ZILKA
ZILKA & KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

AUG 0 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yen, et al.
Application No. 10/209,118
Filed: July 30, 2002

For: WIRED PROTOCOL TO WIRELESS PROTOCOL CONVERTER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as Attorney/Agent and change of address filed on June 7, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

In re Application of:)
Brian J. Mahoney)
Application No. 10/209,157)
Filed: July 31, 2002)
For: **METHOD FOR REMOTE MONITORING EQUIPMENT FOR AN AGRICULTURAL MACHINE**)

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT

This is a decision on the petition filed December 20, 2004 to withdraw an outstanding restriction requirement.

The petition is **DISMISSED**.

Petitioner has not yet requested reconsideration of the requirement for restriction made in the Office action dated November 30, 2004. A petition will not be considered if reconsideration of the requirement was not requested. See 37 CFR § 1.144.

The response period set forth in the final Office action of November 30, 2004 continues to run.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Samir I. Hamtini
20-20 Menahan St.
Ridgewood NY 11385

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APR 11 2005

OFFICE OF PETITIONS

In re Application of
Hamtini
Application No. 10/209,160
Filed: July 31, 2002
Attorney Docket No. N/A
For: TOPICAL MEDICMENT FOR HEATING NAPPY RASH

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2004 (certificate of mailing date December 3, 2004), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the August 12, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on November 13, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

This petition lacks item (1).

Petitioner submitted a total of $1,650.00 with the instant petition. However, $1,670.00 was owed. The issue fee due at the time payment was made was $685.00, **not $665.00** as petitioner allocated.

Petitioner owes an additional **$20.00** towards the issue fee.

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: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Samir I. Hamtini
20-20 Menahan St.
Ridgewood NY 11385

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Hamtini :
Application No. 10/209,160 : DECISION ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. N/A :
For: TOPICAL MEDICAMENT FOR TREATING NAPPY RASH

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed April 18, 2005 and supplemented on April 25, 2005, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the August 12, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on November 13, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted a proper reply in the form of the full issue fee, an acceptable statement of the unintentional nature of the delay in responding to the August 12, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW DEPARTMENT
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

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OFFICE OF PETITIONS

In re Application of :
David P. Mancini et al :
Application No. 10/209,167 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. CML00243CR :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 2005.

Pursuant to petitioner's authorization, Deposit Account No. 50-3079 was charged a total of $3,200.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee and $300.00 for the publication fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Steffi K. Koerner et al :
Application No. 10/209,172 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 13498/010001/MET-14A :

This is a decision on the petition, filed October 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 17, 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 1616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 6,991,775 :
Issued: 31 January, 2006 :
Application No. 10/209,172 : ON PETITION
Filed: 30 July, 2002 :
Attorney Docket No. 13498-010001/MET-14A :

This is a decision on the petition filed on 12 September, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The $130.00 processing fee and $100.00 Certificate of Correction fee will be charged to counsel's deposit account, as authorized in the petition.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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OFFICE OF PETITIONS

In re Application of Zhou et al. :
Application No. 10/209,201 : Decision on Petition
Filing Date: July 31, 2002 :
Attorney Docket No. 2459-1-003CIPDIV :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed October 2, 2006, which 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. Accordingly, the above-identified application became abandoned on November 3, 2006. A Notice of Abandonment was mailed June 4, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the Notice of Non-Compliant Amendment in the form of a new amendment. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1648 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/209,208	07/29/2002	Roger Y. Tsien	02307E-162930US	5786

7590 08/31/2005

Annette S. Parent, Esq.
Townsend & Townsend & Crew LLP
Suite 625
2175 North California Blvd
Walnut Creek, CA 94596

EXAMINER	
LIU, SAMUEL W	

ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
Samuel Liu	
ART UNIT	**PAPER**
1653	20050829

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

The decision on the petition for color drawings filed 04 Nov 2002 in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 USC 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 USC 151),

Petition Granted _____

☒ Petition Granted _____

☐ Petition Denied _____

☐ Petition Dismissed _____

JON WEBER
SUPERVISORY PATENT EXAMINER

By Direction of the Deputy Assistant Director of Patents

_____

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Vantresa Stickler, et al. :
Application No. 10/209,221 : DECISION ON PETITION
Filed: July 29, 2002 : TO WITHDRAW
Attorney Docket No. 38494-00151 : 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 7, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen L. Peterson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 4, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: VANTRESA STICKLER
45 L'ENFANT PLAZA, SW
WASHINGTON, DC 20260-1136

cc: PAMELA N MORGAN
4710 WAVERLY AVENUE
GARRETT PARK, MD 20896

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/209,221	07/29/2002	Vantresa Stickler	38494-00151

CONFIRMATION NO. 4962

OC000000021210966

OC000000021210966

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 11/14/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA CO 80014

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OFFICE OF PETITIONS

In re Application of :
Kodas et al. :
Application No. 10/209,234 : DECISION ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 41890-01599 :

This is a decision on the petition under 37 CFR 1.181, filed on September 19, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this deciding official for a decision on the merits. The Office apologizes for any inconvenience.

On February 13, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on September 21, 2004.

Upon a review of the record, it appears that the application number in the heading of the response identified application No. "10/213,147" rather than the intended application No. "10/209,234." The amendment, a request for an extension of time for response within the third month, and the $950.00 fee were located in the file of application No. 10/213,147. A review of the correspondence indicates that the USPTO received the response on August 10, 2004, but it was not matched with the file due to the identification of the incorrect application number.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP Section 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

The Office finance records will be corrected to indicate that the $950.00 extension of time fee was paid in Application No. 10/209,234.

The matter is being referred to Technology Center Art Unit 1746.

Telephone inquiries regarding the status of the application or the examination process should be directed the Technology Center. Questions related this decision should be directed to the undersigned at (571) 272-3211.

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of :
Tae Hoon Kim :
Application No. 10/209,258 :
Filed: July 30, 2002 :
Attorney Docket No.: PI1410USNA :
Title: METHOD FOR REMOVING :
AMMONIA FROM A GAS COMPRISING :
HYDROGEN CYANIDE, AMMONIA :
AND WATER :

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed August 24, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 25, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on June 26, 2004. A Notice of Abandonment was mailed July 29, 2004.

With the instant petition, 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

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

the filing of the issue, publication, and petition fees, and has made the proper statement of unintentional delay.

The petition is **GRANTED**.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the instant application. Moreover, the application does not indicate a change of address has been filed in the 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 appropriate power of attorney or authorization of agent documentation and change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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[3]. 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.

After this decision is mailed, the application will be forwarded to the Office of Patent Publication for further processing into a patent.

Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Patricia Smink Rogowski
Connolly Bove Lodge and Hutz LLP
The Nemours Building
1007 North Orange Street, P.O. Box 2207
Wilmington, DE 19899

3 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).

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TECHNOLOGY CENTER 2600

SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re application of:
Joe M. Lynam, et al.
Application No. 10/209,288
Filed: July 31, 2002
For: METHOD AND SYSTEM TO VALIDATE PAYMENT METHOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on October 8, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Attorney requesting withdrawal is not of record.

Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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Paper No. 11

PETER I. LIPPMAN
Ashen & Lippman
4385 Ocean View Boulevard
Montrose, CA 91020

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Castleman :
Application No. 10/209,292 :
Filed: July 31, 2002 :
Attorney Docket No. xNCa-44 :

This is a decision in response to the paper titled, "Petition under Rules 182 and 183" filed on November 24, 2003.

The petition under 37 CFR 1.182 is **dismissed**.

The petition under 37 CFR 1.183 is **dismissed**.

A petition under 37 CFR 1.182 is proper when the Office has not promulgated rules to address the facts at issue. However, 37 CFR 1.78 addresses the facts at issue.

A petition under 37 CFR 1.183 will be granted when a petitioner demonstrates the existence of an extraordinary situation where justice requires waiver of the rules. However, "justice" does not require an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. In this case, the rules provide a remedy via 37 CFR 1.78.

For utility or plant applications (including reissues) filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78 (a)(2) and (a)(5). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application under 35 U.S.C. 119(e), 120, 121 and 365(c).

A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by

(1) a surcharge under 37 CFR 1.17(t), and
(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional.

Petitioner should submit a petition under 37 CFR 1.78 along with the proper fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a petition under 37 CFR 1.78 is filed, and a decision on the petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 16

PETER I. LIPPMAN
17900 MOCKINGBIRD LANE
RENO, NV 89506

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Castleman :
Application No. 10/209,292 :
Filed: July 31, 2002 :
Attorney Docket No. xNCa-44 :

This is a decision in response to the petitions under 37 CFR 1.182, 1.183, and 1.137(b) filed on August 3, 2004. The petition under 37 CFR 1.137(b) will also be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.182 is **dismissed**.

The petition under 37 CFR 1.183 is **dismissed**.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Due to the complexity of the instant facts, a phone call to petitioner to discuss the matter will not be made prior to the mailing of the decision. However, petitioner is welcome to call the undersigned after review of the decision.

The petitions under 37 CFR 1.182 and 1.183.

A review has been made of the previous decision, and the review fails to indicate that the petitions should be granted.

37 CFR 1.78(a)(iii) discusses the methods by which one may properly claim priority to a prior non-provisional application.

37 CFR 1.78(a)(iii) states,

> If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

The application made references to the parent application in various places. However, a claim to priority was not made in the first sentence of the specification or in an application data sheet within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78 (a)(2) and (a)(5).

Since a proper priority claim was not timely made, the benefit of priority is considered waived.

However, an avenue of relief does exist in cases such as the instant case. A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by

(1) a surcharge under 37 CFR 1.17(t), and
(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional.

Neither a petition under 37 CFR 1.78 nor the fee have been filed.

Petitioner has filed a petition under 37 CFR 1.182. However, relief under 37 CFR 1.182 is only proper when the Office has not promulgated rules to address the facts at issue. However, 37 CFR 1.78 does address the facts at issue.

A petition under 37 CFR 1.183 will be granted when a petitioner demonstrates the existence of an extraordinary situation where justice requires waiver of the rules. However, "justice" does not require an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. In this case, the rules provide a remedy via 37 CFR 1.78. The fact that the alternative avenue of relief may cost more than a petition under 37 CFR 1.183 does not alter the analysis.

If petitioner wishes to add the priority claim, petitioner may:

(1) provide an amendment adding the claim for priority to the first sentence of the specification,
(2) pay the surcharge which is currently $1,300 but will increase to $1,370 as of October 1, 2004, and
(3) file a petition under 37 CFR 1.78 which includes a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date a *proper* claim was filed was unintentional.

As to (1), the amendment which has been filed may not be satisfactory. A full discussion can be found below.

In summary, if a proper claim for priority to a non-provisional application is not made within the prescribed time limits, then the claim may only be made upon the filing of a grantable petition under 37 CFR 1.78.

The amendment:

The Technology Centers and not the Office of Petitions are the parties responsible for examining the amendment and determining if formal requirements have been met and if the amendment is considered "responsive." However, a brief glance at the amendment indicates the presence of some serious problems.

The requests made in the amendment are vague. For example, petitioner requests that changes be made to the copy of the parent application's specification. One cannot alter the specification in the grandfather or father application via amendments filed in the instant case. Even if amendments in one case could alter another application, changes could not be made to the father or grandfather application since both have issued as patents. The Office *strongly* suggests that petitioner thoroughly review the prior amendment, read all of MPEP 714, and take all other necessary steps to ensure a proper amendment is present once the file is forwarded to the examiner for further prosecution.

The amendment is relevant to the instant petitions in so far as relief cannot be granted even if a petition under 37 CFR 1.78 is filed unless a proper claim for priority is made either by amendment or Application Data Sheet.

The Office of Petitions is not responsible for review of amendments and has not attempted to list any and all problems and will not further review or discuss the amendment unless a petition under 37 CFR 1.78 is filed. If such a petition is filed, only a cursory review of the portion of the amendment dealing with the priority claim will be made.

The petition under 37 CFR 1.137(b) and the petition under 37 CFR 1.181:

A previous decision dismissing petitions under 37 CFR 1.182 and 1.183 was mailed on August 3, 2004.

The decision set a time period to respond of two months.

Petitioner did not file a request for reconsideration within two months.

A Notice of Abandonment was mailed on June 10, 2004, based on the fact that a response to the dismissal was not filed within two months. However, failure to respond to the two month time period simply resulted in the Office, at its discretion, being able to dismiss any future petitions under 1.182 or 1.183 as untimely. The failure to file a request for reconsideration within two months did *not* result in Abandonment.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, a refund of the fee will be scheduled.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a petition under 37 CFR 1.78 is not filed within two months, the file will be forwarded to the examiner for further prosecution in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
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

PETER I. LIPPMAN
17900 MOCKINGBIRD LANE
RENO, NV 89506

COPY MAILED

JUN 2 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Castleman :
Application No. 10/209,292 :
Filed: July 31, 2002 :
Attorney Docket No. xNCa-44 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 2, 2005, to accept a unintentionally delayed priority claim set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 30, 2002. The priority claim at issue was not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) which allows one to make late priority claims if certain criteria are satisfied.

Per 37 CFR 1.78(a)(3), 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:

(1) The reference required by 37 CFR 1.78(a)(2), unless previously submitted;
(2) The surcharge set forth in § 1.17(t); and
(3) A statement that the entire delay between the date the claim was due under paragraph (a)(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.

Petitioner has satisfied the requirements listed above.

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed application, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claim and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claim, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2839 for appropriate action on the amendment submitted February 2, 2005, including consideration by the examiner of the claim for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed application.**

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/209,298	11-Jun-03	MICHAEL MOLES, ET AL.	569-02

Title: PHASED ARRAY ULTRASONIC NDT SYSTEM FOR FASTENER INSPECTIONS

Art Unit	Paper Number

Correspondence Address:
WILLIAM H. EILBERG
420 OLD YORK ROAD
JENKINTOWN, PA. 19046

PATENT & TRADEMARK OFFICE
MAILED
NOV 18 2003
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

William H. Eilberg
420 Old York Road
Jenkintown, PA 19046

RECEIVED
AUG 20 2003
TECHNOLOGY CENTER 2800

In re:	Moles et al	:	DECISION ON REQUEST
Serial No.:	10/209,298	:	UNDER 37 CFR 5.25
Filing date:	July 30, 2002		
Docket No:	569-02		

Title: PHASED ARRAY ULTRASONIC NDT SYSTEM FOR FASTENER INSPECTIONS

This is a decision on the petition filed on June 9, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii) have not been met.

The Declaration by Mr. French does not provide any documentation of the circumstances surrounding discovery of the proscribed filing, and more importantly, the date or dates that the discovery. Without documentation of the dates of such discovery, the showing of diligence may not be ascertained.

Further, the instant petition requires that a copy of the application be filed therewith. No such copy has been found with the instant petition.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

William H. Eilberg, Esq.
Three Bala Plaza
Suite 501 West
Bala Cynwyd, PA 19004

In re:	Moles et al	:	DECISION ON REQUEST
Serial No.:	10/209,298	:	UNDER 37 CFR 5.25
Filing date:	July 30, 2002		
Docket No:	569-02		

Title: **PHASED ARRAY ULTRASONIC NDT SYSTEM FOR FASTENER INSPECTIONS**

This is a decision on the petition filed on February 17, 2004 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	**Date**
CANADA	July 30, 2002

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS.
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/209,298	6/11/03	MICHAEL MOLES, ET AL.	569-02

Title: **PHASED ARRAY ULTRASONIC NDT SYSTEM FOR FASTENER INSPECTIONS**

Art Unit	Paper Number

Correspondence Address:
WILLIAM H. EILBERG
THREE BALA PLAZA,
SUITE 501 WEST
BALA CYNWYD, PA 19004

PATENT & TRADEMARK OFFICE
MAILED

AUG 1 0 2004

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 533,028

Grant Date: 10-Aug-04

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the 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 respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

SEP 26 2002
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No.: UCSF1120-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Toland and Balmain	Art Unit:	1645
Application No.:	10/209,324	Examiner:	Unassigned
Filed:	July 29, 2002		
Title:	STK15 (STK6) GENE POLYMORPHISM AND METHODS OF DETERMINING CANCER RISK		

BOX MISSING PARTS
Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application mailed September 11, 2002, enclosed are:

1. One (1) copy of the Notice to File Missing Parts of Nonprovisional Application mailed September 11, 2002 (2 pages);
2. Two (2) executed Declarations For Patent Application (6 pages);
3. One (1) Power of Attorney by Assignee (2 pages);
4. Check No. 519255 in the amount of $651.00; and
5. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, **September 20, 2002,** in an envelope addressed to: Box MISSING PARTS, Commissioner for Patents, Washington, DC 20231.
Aldon Griffis *(Name of Person Mailing Paper)*
Aldon Griffis **September 20, 2002** *(Signature)* *(Date)*

Gray Cary\GT\6313253.1
104661-4

SEP 26 2002
PATENT & TRADEMARK OFFICE

Applicants claim **small entity** status in the above-identified application. Pursuant to 37 C.F.R. § 1.27, a verified statement claiming small entity status is not required.

The filing fee has been calculated as follows.

	Number Filed		Number Extra		Rate			Fee	
					Small Entity	Large Entity		Small Entity	Large Entity
Total Claims	**30** - 20	=	**10**	X	$09	$18	=	$ 90.00	$ .00
Independent Claims	**6** - 3	=	**3**	X	$42	$84	=	$126.00	$ .00
Multiple Dependent Claims Presented: ___ Yes __X__ No					$140	$280		$ .00	$ .00
					BASIC FEE			$370.00	$ 740.00
					SURCHARGE FEE			$ 65.00	$ 130.00
					TOTAL FEE			$ 651.00	$ .00

Enclosed is Check No. 519255 in the total amount of $651.00; which consists of $370.00 for the filing fee, $90.00 for 10 additional claims over 20, $126.00 for 3 additional independent claims over 3 and $65.00 for the declaration surcharge fee The Commissioner is hereby authorized to charge any other fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: September 20, 2002

Lisa A. Haile, J.D., Ph.D.
Registration No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

USPTO CUSTOMER NUMBER 28213
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133

OIPE JC117 SEP 26 2002 PATENT & TRADEMARK OFFICE

#14

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
10/209,324	07/29/2002	Amanda E. Toland	UCSF1120-2

CONFIRMATION NO. 5267

28213
GARY CARY WARE & FRIENDENRICH LLP
4365 EXECUTIVE DRIVE
SUITE 1600
SAN DIEGO, CA 92121-2189

FORMALITIES LETTER

OC000000008761055

Date Mailed: 09/11/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

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 **$216** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$651** for a Small Entity

- **$370** Statutory basic filing fee.
- **$65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$216**

09/27/2002 MBERHE 00000069 10209324
01 FC:201 370.00 OP
02 FC:205 65.00 OP
03 FC:203 90.00 OP
04 FC:202 126.00 OP

- **$90** for **10** total claims over 20.
- **$126** for **3** independent claims over 3.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Peng et al. :
Application No. 10/209,329 : DECISION ON PETITION
Filed: July 30, 2002 :
Atty. Docket No. 40715-274782 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on December 20, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on March 21, 2005. A Notice of Abandonment was mailed on July 12, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

The matter is being referred to Technology Center Art Unit 1722.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSH FISCHMANN & BREYFOGLE LLP
3151 S. VAUGHN WAY, SUITE 411
DENVER, CO 80014

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of :
Toivo T. Kodas et al :
Application No. 10/209,343 : DECISION GRANTING PETITION
Filed: July 31, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 41890-01602 :

This is a decision on the petition, filed January 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 1732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUL 18 2008

In re Application of :
John B. Carlucci et al :
Application No. 10/209,349 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 5079P018C :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 12, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 13, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Oren Reches
13 Hadafna St.
Zoran 42823, Israel

SPE : K. Yao

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/5/07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/209,357 Patent No.: 7151746

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2616 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Richard Allen Hayes	: DECISION ON REQUEST FOR
Patent Number	: 7625994	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/209,369	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **200** 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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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FEB 0 6 2007

OFFICE OF PETITIONS

In re Application of
John S. Worley
Application No. 10/209,374
Filed: July 20, 2002
Attorney Docket No. 100201463-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2006, to revive the above-identified application. The petition will be treated as request for an extension of time within the second month.

The request is **GRANTED**.

The above-cited application was held abandoned for failure to file a timely and proper reply to the Notification of Non-Compliant Appeal Brief mailed August 21, 2006, which set a period for reply one month from its mailing date. The notice states that extension of the time set for reply were available pursuant to 37 CFR 1.136(a). Notwithstanding, the application was held abandoned and a Notice of Abandonment mailed October 30, 2006.

A petition under 37 CFR 1.137(b) was filed on November 27, 2006, to revive the application. It does not appear that the application is abandoned because the maximum extendable period for reply has yet to expire. Accordingly, the petition under 37 CFR 1.137(b) is being treated as a request for an extension of time within the second month.

The fee for an extension of time within the second month is $450.00. Accordingly, the amount of $450.00 will be deducted from the $1,500.00 fee paid for the petition under 37 CFR 1.137(b) with the remainder of $1,050.00 being refunded, in due course.

The Appeal Brief, filed November 27, 2006 (certificate of mailing dated November 21, 2006, is noted.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary

The application file is being forwarded to Technology Center 2100, GAU 2164 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Robert W. Bergstrom
Olympic Patent Works, PLLC
PO Box 4277
Seattle, WA 98194-02777

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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APR 14 2008

OFFICE OF PETITIONS

In re Application of :
John S. Worley :
Application No. 10/209374 :
Filing or 371(c) Date: 07/30/2002 : ON PETITION
Attorney Docket Number: 100201463-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

Applicant filed a Notice of Appeal on November 25, 2005, and thereafter timely filed an appeal brief on January 26, 2006. The appeal brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed April 3, 2006. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed an Appeal Brief in response to the Notice on June 8, 2006; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed August 21, 2006. A Notice of Abandonment was mailed October 30, 2006. Applicant filed a petition to revive the application on November 27, 2006, along with an Appeal Brief. The petition was granted in a Decision mailed February 6, 2007.

A non-final office action was mailed May 1, 2007. In response to the non-final Office action, Applicant filed a request to reinstate the appeal, and an Appeal Brief on September 10, 2007. The Appeal Brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed October 11, 2007. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed an Appeal Brief in response to the Notice on

November 16, 2007; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed December 3, 2007. No timely and properly having been received, and no claims having been allowed, the appeal was dismissed and the application became abandoned on August 2, 2007[1].

The present petition

Applicant files the present petition and Appeal Brief.

Applicable law

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to (3), the Examiner has reviewed the Appeal Brief and determined that he Brief is Non-Compliant.

The Examiner has provided the following comments:

The "Summary of the Claims Subject Matter" should not contain an "Overview". Also, in regards to independent Claim 10, Steps 1 and 3 have no citation of specification pages or drawing numbers; Claim 20 steps 1-2 and 4 are also missing references to the spec and drawings. And claims 2-9, 11-16, 18-19 and 21-25 do not contain references to the spec or drawings and there is no indication if the arguments pertaining to those claims are to be grouped or argued separately. If they are argued separately then they are listed improperly (i.e. they should not be grouped).

Further correspondence with respect to this matter should be addressed as follows:

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[1] The MPEP, 1205.02, provides that the appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning the appeal brief should be directed to the Examiner. Questions regarding this petition Decision 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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
John S. Worley :
Application No. 10/209374 :
Filing or 371(c) Date: 07/30/2002 : ON PETITION
Attorney Docket Number: 100201463-1 :

This is a decision on the request for reconsideration of petition under 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

Applicant filed a Notice of Appeal on November 25, 2005, and thereafter timely filed an appeal brief on January 26, 2006. The appeal brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed April 3, 2006. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed an Appeal Brief in response to the Notice on June 8, 2006; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed August 21, 2006. A Notice of Abandonment was mailed October 30, 2006. Applicant filed a petition to revive the application on November 27, 2006, along with an Appeal Brief. The petition was granted in a Decision mailed February 6, 2007.

A non-final office action was mailed May 1, 2007. In response to the non-final Office action, Applicant filed a request to reinstate the appeal, and an Appeal Brief on September 10, 2007. The Appeal Brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed October 11, 2007. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed an Appeal Brief in response to the Notice on

November 16, 2007; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed December 3, 2007. No timely and properly having been received, and no claims having been allowed, the appeal was dismissed and the application became abandoned on August 2, 2007[1].

The February 7, 2008 petition

Applicant filed a petition on February 7, 2008, and an Appeal Brief. The petition was dismissed in a Decision mailed April 14, 2008. The Decision informed Applicant that the Appeal Brief was non-compliant for the following reasons:

> The "Summary of the Claims Subject Matter" should not contain an "Overview". Also, in regards to independent Claim 10, Steps 1 and 3 have no citation of specification pages or drawing numbers; Claim 20 steps 1-2 and 4 are also missing references to the spec and drawings. And claims 2-9, 11-16, 18-19 and 21-25 do not contain references to the spec or drawings and there is no indication if the arguments pertaining to those claims are to be grouped or argued separately. If they are argued separately then they are listed improperly (i.e. they should not be grouped).

Petition Decision at p.2.

The present request for reconsideration

Applicant files the present request for reconsideration and an Amended Appeal Brief.

Applicable law

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

---

[1] The MPEP, 1205.02, provides that the appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

As to (3), the Examiner has reviewed the Appeal Brief and determined that he Brief is Non-Compliant.

The Examiner has provided the following comments:

> Not all claim steps that are listed in the "Summary of claim subject matter" section are properly correlated to the specification by reference to page and line numbers in the specification, and each must also, include references to the drawings and elements within the drawing.
>
> For example Claim 1 step 1 is not referenced to the specification; step 4 has not been correlated at all.

Further correspondence with respect to this matter should be addressed as follows:

It is noted that after the application was revived iwith the Decision on Petition mailed November 27, 2006, Applicant has filed Non-Compliant Appeal Briefs on September 10, 2007; November 16, 2007; February 7, 2008 and June 19, 2008. *After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.* Therefore, it is extremely important that petitioner file a proper Appeal Brief with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning the appeal brief should be directed to the Examiner. Questions regarding this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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APR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
John S. Worley	:	
Application No. 10/209374	:	
Filing or 371(c) Date: 07/30/2002	:	ON PETITION
Attorney Docket Number: 100201463-1	:	

This is a decision on the request for reconsideration of petition under 37 CFR 1.137(b), filed December 19, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

Applicant filed a Notice of Appeal on November 25, 2005, and thereafter timely filed an appeal brief on January 26, 2006. The appeal brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed April 3, 2006. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed an Appeal Brief in response to the Notice on June 8, 2006; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed August 21, 2006. A Notice of Abandonment was mailed October 30, 2006. Applicant filed a petition to revive the application on November 27, 2006, along with an Appeal Brief. The petition was granted in a Decision mailed February 6, 2007.

A non-final office action was mailed May 1, 2007. In response to the non-final Office action, Applicant filed a request to reinstate the appeal, and a first Appeal Brief on September 10, 2007. The Appeal Brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed October 11, 2007. The Notice set a one (1) month period for reply from the mail date of the Notice. Applicant filed a second Appeal Brief in response to the Notice on November 16, 2007; however, the response was also noncompliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief, mailed December 3, 2007. No timely and properly having been received, and no claims having been allowed, the appeal was dismissed and the application became abandoned on August 2, 2007[1].

[1] The MPEP, 1205.02, provides that the appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

The February 7, 2008 petition

Applicant filed a petition on February 7, 2008, and a third Appeal Brief. The petition was dismissed in a Decision mailed April 14, 2008. The Decision informed Applicant that the Appeal Brief was non-compliant for the following reasons:

> The "Summary of the Claims Subject Matter" should not contain an "Overview". Also, in regards to independent Claim 10, Steps 1 and 3 have no citation of specification pages or drawing numbers; Claim 20 steps 1-2 and 4 are also missing references to the spec and drawings. And claims 2-9, 11-16, 18-19 and 21-25 do not contain references to the spec or drawings and there is no indication if the arguments pertaining to those claims are to be grouped or argued separately. If they are argued separately then they are listed improperly (i.e. they should not be grouped).

Petition Decision at p.2.

The June 19, 2008 request for reconsideration

Applicant filed a request for reconsideration and a fourth Amended Appeal Brief. The Examiner reviewed the Appeal Brief and determined that he Brief was again Non-Compliant. The request for reconsideration was dismissed in a Decision mailed October 14, 2008.

The present request for reconsideration

Applicant files the present renewed petition and a fifth Amended Appeal Brief .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper Appeal Brief; (2) the petition fee (filed February 7, 2008); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

The application is being referred to Technology Center Art Unit 2164 processing of the brief in support of appeal, filed with the present petition in the normal course of business.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Robert J. Kapalka
Tyco Technology Resources
4550 New Linden Hill Road, Suite 450
Wilmington DE 19808-2952

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JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Wojtacki, Peterson, Zarbock, Geniac, Remaley,
Pacyga, and Gutierrez
Application No.: 10/209,377
Filed: July 31, 2002
Attorney Docket No: 17705
For: MODULAR JACK ASSEMBLY WITH SIGNAL CONDITIONING

: DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 31, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on July 31, 2002, and was accompanied by a declaration executed by all of the named inventors, with exception of inventor Pacyga. Among the application papers was the instant petition requesting status be accorded under 37 CFR 1.47(a) and a statement authored by inventor Wojtacki explaining the circumstances of inventor Pacyga's alleged refusal to join the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers. 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Bruce H. Cottrell
LOS ALAMOS NATIONAL LABORATORY
LC/IP, MS A187
Los Alamos, New Mexico 87545

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of:
HOLESINGER, Terry G., et al.
Application No.: 10/209,391
Filing Date: July 31, 2002
Attorney's Docket No.: S-97,795
For: MULTILAYER COMPOSITES AND MANUFACTURE OF SAME

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), filed March 30, 2005, to revive the above-entitled application.

The petition is **GRANTED**.

As set forth in the "Notice Of Abandonment" mailed March 29, 2005, this application became abandoned for failure to timely file a proper reply to the Office action mailed March 04, 2004.[1]

On March 30, 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 (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) have been received. Accordingly, the reply to the final Office action of March 04, 2004 is accepted as having been unintentionally delayed.

It is noted that the reply submitted by applicants was not identified as an RCE. Rather, the submission was identified as a "Continued Prosecution Application (CPA) Request Transmittal" (accompanied by an "Amendment/Response" directed to the Office action of March 29, 2005). 37 CFR 1.53(d)(1) has been amended to provide that a CPA must be for a design patent and the prior application of the CPA must be a design application that is complete as defined by 37 CFR 1.51(b).[2] Since a CPA of this application is not permitted under 37 CFR

---

[1] On July 6, 2005, applicants filed a Notice Of Appeal with respect to this Office action, but applicants did not file a timely appeal brief.

[2] *See Elimination Of Continued Prosecution Application Practice as to Utility and Plant Patent Applications.* Final rule. 68 *Fed. Reg.* 32376 (May 30, 2003), 1271 *Off. Gaz. Pat. Office* 143 (June 24, 2003).

1.53(d), the improper request for a CPA is being treated as a request for continued examination (RCE) of this application under 37 CFR 1.114. See MPEP § 706.07(h)(IV).

Pursuant to the authorization contained in the submission, Deposit Account No. 12-2150 will be charged the fee required for the RCE.

The application file is being referred to Technology Center AU 1753

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.

Brian Hearn
Petitions Examiner
Office Of Petitions

Ex. McGarry

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/18/06

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 6906186 Patent No.: 10/209,405

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: SEE PAPER 20050228 MAILED 4/20/05 PETITION UNDER 37 CFR 1.148(b) TO REMOVE SUSAN M. FREIR APPROVED. [signature] 6/21/06

[signature]
SPE

1635
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

TIBERIU WEISZ
GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
NEW YORK, NEW YORK 10016-0601

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Mark N. Hochman :
Application No. 10/209,415 : DECISION ON PETITIONS
Filed: July 31, 2002 : 37 CFR 1.137(b)
Attorney Docket No. 3486-033 DIV II :

This is a decision on the petition under 37 CFR §1.137(b), submitted August 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

This application became abandoned for failure to submit the required response in a timely manner in reply to the Notice of Non-compliance mailed October 27, 2004, which set an extendable period for reply of one (1) month. No reply was received.

An Office action was mailed on April 13, 2004, which set an extendable shortened statutory period for reply of one (1) month. An amendment with remarks was received on June 10, 2004, but did not constitute a proper reply. A Notice of Non-compliance was mailed on July 30, 2004 stating that the amendment did not indicate all the claims of record. Accordingly, applicant requested an extension of time for one month and re-filed a subsequent communication limited to

a claims listing on September 10, 2004. A subsequent Notice of Non-compliance was mailed on October 27, 2004. Another fee of $55.00 for an extension of time for one month was charged on November 11, 2004 but no reply was received from the applicant. The applicant filed a status letter on July 18, 2005. A Notice of abandonment was mailed in reply to the applicant on August 10, 2005.

The remarks filed June 10, 2004 did not include a complete reply. 37 CFR 1.143 states:

> "In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected."

While the applicant amended the claims, an election (stated) is still required because the inventions were shown to be distinct for the reasons given in the office action and to further have acquired a separate status in the art as shown by their different classification. MPEP 818 (second sentence) and MPEP 818.03 requires an express election in response to a restriction requirement. Also, no election of species was provided, as further required in 37 CFR 1.146.

The $685.00 amount provided for the petition fee charged on August 12, 2005 was insufficient. Further, the additional fee for an extension of time in the amount of $55.00 charged on November 12, 2004 was in excess. The difference in fees of $10.00 (ten) will be charged to deposit account no. 07-1730.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
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 Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

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

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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AUG 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Hochman et al. :
Application No. 10/209,415 : ON PETITION
Filed: July 31, 2002 :
For:HAND-PIECE FOR INJECTION DEVICE WITH A RETRACTABLE AND ROTATING NEEDLE :

This is a decision on the renewed petition filed March 22, 2006, under 37 CFR 1.137(b) to revive the above-identified abandoned application.

The petition is **granted,** and this application is restored to pending status.

The change of address filed April 14, 2006 has not been processed as it was filed by a registered practitioner not of record. The renewed petition, while likewise signed by a registered practitioner not of record, has been accepted under the provisions of 37 CFR 1.34. A courtesy copy of this decision is being mailed, on a one time basis to the address of counsel who signed the petition.

Should those counsel wish to become of counsel of record then a proper revocation and appointment of counsel is required. If signed by the assignee, such must be accompanied by a proper showing under 37 CFR 3.73(b).

This allowed application is being referenced to the Technology Center to consider the election filed with the renewed petition.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc:
John C. Serio
Brown Rudnick Berlack Israels LLP
One Financial Center Box IP
Boston MA 02111

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Paper No. 6

MAIL

MAR 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CARL A. KUKKONEN, III
C/O WUESTHOFF & WUESTHOFF
SCHWEIGERSTRASSE 2
MUNICH 81541 DE GERMANY

In re Application of :
Karst Schmidt :
Application No. 10/209,429 : DECISION ON REQUEST TO
Filed: July 30, 2002 : WITHDRAW AS ATTORNEY
For: **LOCALIZATION OF A MOBILE END USER UNIT BY MONITORING A GEOGRAPHICAL AREA** :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on February 20, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorney/agent listed in the request to withdraw is withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being to TC 2600 central files to await action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED
JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Gavish et al. :
Application No. 10/209,453 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. :
42P10059D :

This is a decision on the Petition for Unintentionally Delayed Benefit Claim Under 37 CFR 1.78(a)(3), filed January 31, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1763 for appropriate action on the amendment filed May 27, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

SEP 12 2003

Office of the Director
Group 3600

THE LAW OFFICES OF P. B. TUFARIELLO, P. C.
8 FOUNTAIN AVENUE
SELDEN NY 11784

Paper No. 4

In re application of : **DECISION ON PETITION**
Theerese M. Brancato : **TO MAKE SPECIAL**
Application No. 10/209,462 : **(INFRINGEMENT)**
Filed: July 31, 2002
For: MULTI-FUNCTION JEWELRY CHAIN PRIMARILY FOR SUPPORTING AN UPPER TORSO GARMENT

This is a decision on the repetition under 37 C.F.R § 1.102(d) filed June 7, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 7, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/ekn 9/10/03

3677

INTELLECTULAW
LAW OFFICES OF P.B. TUFARIELLO, P.C.
ATTORNEYS AT LAW

P. BETTY TUFARIELLO
Shareholder
24yellow@optonline.net
Info@intellectulaw.com

25 LITTLE HARBOR ROAD • MT. SINAI, NEW YORK 11766
TELEPHONE 631-476-8734 • FAX 631-476-8737

SPECIALIZING IN PATENTS, TRADEMARKS, COPYRIGHTS, AND ALL MATTERS RELATED THERETO

OIPE
SEP 26 2005
PATENT & TRADEMARK OFFICE

September 16, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re:	Applicant:	Theresa M. Brancato
	Application no:	10/209,462
	Filing Date:	July 31, 2002
	Title:	MULTI-FUNCTION JEWELRY CHAIN PRIMARILY FOR SUPPORTING AND UPPER TORSO GARMENT
	Our File No:	7017-3

Dear Sir:

Enclosed are the following items in connection with the above referenced trademark:

1. Cover Letter;
2. NOTIFICATION OF CHANGE OF CORRESPONDENCE ADDRESS; and
3. Self-addressed acknowledgment postcard.

Respectfully submitted,

Panagiota Betty Tufariello

PANAGIOTA BETTY TUFARIELLO

PBT:ac
Enclosures

CERTIFICATE OF MAILING

Date of Deposit: September 16, 2005
I hereby certify that this correspondence is being deposited on the date with the U.S. Postal Service with sufficient postage as FIRST CLASS MAIL in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, Friday, September 16, 2005

Dated: 9/16/05

Panagiota Betty Tufariello

Panagiota Betty Tufariello

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Aldea et al.	:	
Application No. 10/209,471	:	DECISION ON APPLICATION
Filed: July 30, 2002	:	FOR
Atty Docket No. D1815-00058	:	PATENT TERM ADJUSTMENT

This is in response to the PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT filed September 28, 2007. Applicants request that the patent term adjustment be increased by the entire period from November 15, 2005 until the issue date of the patent.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within four months after the payment of the issue fee and satisfaction of all outstanding requirements. It is recognized that the issue fee payment was made on July 15, 2005. However, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within four months after the payment of the issue fee and satisfaction of all outstanding requirements. See § 1.703(a)(6)[1].

[1] 1.703(a)(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

Prior to the issuance of the patent, the patent term adjustment will be *revised* given applicant and Office delays, if any, after the mailing of the notice of allowance. The Office will mail an Issue Notification about two weeks before the issue date of the patent, which will include the *revised* patent term adjustment information that will be printed on the face of the patent. A request for reconsideration of this *revised* patent term adjustment filed within 2 months of the issue date of the patent is properly and timely filed. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, 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

Paper No.

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

COPY MAILED

JUN 24 2008

OFFICE OF PETITIONS

In re Patent No. 7,311,964	:	
Aldea et al.	:	DECISION ON REQUEST FOR
Issue Date: December 25, 2007	:	RECONSIDERATION OF
Application No. 10/209,471	:	DECISION ON APPLICATION
Filed: July 30, 2002	:	FOR
Atty Docket No. D1815-00058	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT filed February 25, 2008. Applicants again request that the patent term adjustment be increased by the entire period from November 15, 2005 until the issue date of the patent.

The request for reconsideration of patent term adjustment is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

By decision mailed October 30, 2007, a decision on the initial application for patent term adjustment filed September 28, 2007 was held in abeyance. Applicants were advised knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within four months after the payment of the issue fee and satisfaction of all outstanding requirements. See § 1.703(a)(6)[1].

[1] 1.703(a)(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and

On December 25, 2007, the application matured into U.S. Patent No. 7,311,964, with a revised patent term adjustment of 88 days. On February 25, 2008, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 800 days.

Patentees again request that the patent term adjustment be increased by the entire period from November 15, 2005 until the issue date of the patent, pursuant to 37 CFR 1.703(a)(6). Patentees' argument is not persuasive. The issue fee was paid on July 15, 2005. However, applicant had filed a request for continued examination (RCE) and information disclosure statement (IDS) on March 3, 2005. Pursuant to those filings, prosecution was re-opened (and a corrected Notice of Allowance mailed on June 28, 2007). On September 28, 2007, as required to avoid abandonment of the application, applicants responded to the corrected Notice of Allowance requesting that the previously paid issue fee be reapplied.

As stated in MPEP 2700,

> If prosecution in an application is reopened after allowance (see MPEP § 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP § 1308).

Accordingly, any period of adjustment is properly calculated from the date of filing of the response to the corrected Notice of Allowance, September 28, 2007. Within four months of that date, on December 25, 2007, the patent issued. Thus, there was no Office delay within the meaning of 37 CFR 1.703(a)(6).

The revised patent term adjustment of 88 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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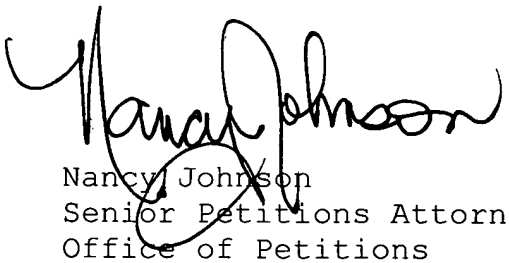
all outstanding requirements were satisfied and ending on the date a patent was issued.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JAN 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,311,964	:	DECISION ON REQUEST FOR
Aldea et al.	:	RECONSIDERATION OF
Issue Date: December 25, 2007	:	DECISION ON APPLICATION
Application No. 10/209,471	:	FOR PATENT TERM ADJUSTMENT
Filed: July 30, 2002	:	and
Atty Docket No. D1815-00058	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT filed August 21, 2008. Patentees request that the revised patent term adjustment indicated in the patent be increased by 770 days, from eighty-eight (88) days to eight hundred fifty-eight (858) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of eight hundred fifty-eight **(858)** days.

By decision mailed October 30, 2007, a decision on the initial application for patent term adjustment filed September 28, 2007 was held in abeyance pending issuance of the patent and patentees' timely resubmission of a request for reconsideration after issuance of the patent. On December 25, 2007, the application matured into U.S. Patent No. 7,311,964, with a revised patent term adjustment of 88 days. By decision mailed June 23, 2008, the resubmission of the request for

reconsideration of the patent term adjustment timely filed February 25, 2008 was dismissed.

Patentees timely request reconsideration of the June 23, 2008 decision. Patentees request that the patent term adjustment be increased by 770 days for the entire period from November 15, 2005 until the issue date of the patent, pursuant to 37 CFR 1.703(a)(6)[1]. Further, patentees point out that the application was allowed a second time on April 18, 2005 after prosecution was reopened by the filing of the RCE and IDS on March 3, 2005. Further, patentees point out that applicants made no further submissions or requests to re-open prosecution after April 18, 2005, and the Office never withdrew the allowability of the application dated April 18, 2005.

Patentees' arguments have been considered and found persuasive. A closer review of the record reveals no basis for the mailing of a corrected Notice of Allowance on June 28, 2007 with respect to reopening prosecution.

As stated in MPEP 2700,

> If prosecution in an application is reopened after allowance (see MPEP § 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP § 1308).

The provisions of MPEP 2700 quoted above are still applicable. However, the undersigned did not properly consider the April 18, 2005 Notice of Allowance in the previous decision. Any period

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[1] 37 CFR 1.702(a)(4) provides that grounds for entry of a period of adjustment for examination delay include Office failure to:

> Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

37 CFR 1.703(a)(6) provides that the period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(4) is:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

of adjustment is properly calculated from the date of filing of the response to the Notice of Allowance mailed April 18, 2005. In this instance, the April 18, 2005 Notice of Allowance re-opened prosecution after the filing of the RCE and IDS on March 3, 2005. The issue fee and all outstanding requirements were met with the filing of the issue fee payment on July 15, 2005. The patent did not issue until December 25, 2007, four months and 770 days later. Thus, there was Office delay within the meaning of 37 CFR 1.703(a)(6) for which entry of a period of adjustment of 770 days is warranted.

In view thereof, the correct revised patent term adjustment indicated on the patent is eight hundred fifty-eight (858) days.

The $200.00 fee set forth in 37 CFR 1.18(e) was submitted on application for patent term adjustment filed February 25, 2008. No additional fee is required on request for reconsideration of the decision on application for patent term adjustment.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred fifty-eight **(858)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,311,964 B2

DATED : **December 25, 2007** **DRAFT**

INVENTOR(S) : Aldea 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 88 days

Delete the phrase "by 88 days" and insert – by 858 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

January 2005

Hogan & Hartson L.L.P.
500 S. Grand Ave., Suite 1900
Los Angeles, CA 90071-2611

JAN 14 2005

In re Application of:
Eiichi Hosomi
Serial No.: 10/209,498
Filed: July 30, 2002
Attorney Docket No.: 83396.0002

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.8(b) filed on April 5, 2004. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on March 1, 2004 holding the application to be abandoned for failure to timely file a proper reply to the Office action mailed on July 8, 2003. A review of the application file reveals that a response to the Office action mailed on July 8, 2003 was actually filed on November 13, 2003. Therefore, the only issue to be decided here is whether the response was timely.

The Office action of July 8, 2003 set a three month shortened statutory period for reply. Thus, a response was initially due on October 8, 2003. A petition and fee for a one-month extension of time was filed with the response. This extended the time period to reply to November 8, 2003. A Certificate of Mailing dated November 10, 2003 was filed with the response. Although the Certificate of Mailing on the front page of the response was not signed, the Certificate of Mailing on the transmittal sheet filed with the response was signed. The Certificate of Mailing on the transmittal sheet is sufficient to consider the response filed November 13, 2003 as timely under the provisions of 37 C.F.R. §§ 1.7(a) and 1.8(a) since November 8, 2003 was a Saturday.

Accordingly, the Notice of Abandonment mailed March 1, 2004 is **VACATED** and the holding of abandonment is withdrawn. The examiner will be notified to resume prosecution.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, 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
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Paper No. 14

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Audonnet, et al. :
Application No. 10/209,507 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No: 544313-3151.2 :

This is regarding the "Petition to Revive and Waive Rules" filed October 12, 2004. The petition will be treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed oath or declaration.

The petition is dismissed as moot.

Petitioner has requested that the Declaration and Power of Attorney filed with the petition be accepted as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution of the patent application. Petitioner makes this request because it is alleged that the signatures of some of the inventors were falsified on the originally filed declaration.

While the facts of the petition are noted, a review of the application history did not reveal any error in the prosecution, relative to the oath or declaration, that could be remedied by the filing of a petition under 37 CFR 1.137(b). More specifically, no Office communication was issued requiring the filing of a properly executed oath or declaration such that the subsequent failure to file a declaration with the true signatures of the inventors would have resulted in abandonment of the application justifying the filing of a petition under 37 CFR 1.137 at this juncture. The instant petition is, therefore, moot.

Notwithstanding the aforementioned, the declaration filed with the instant petition can be made a part of the record as a supplemental declaration filed pursuant to 37 CFR 1.67 which allows for the filing of a supplemental declaration to correct deficiencies or inaccuracies present in an earlier filed application. The declaration filed October 12, 2004, is noted as a supplemental declaration pursuant to 37 CFR 1.67, accordingly.

The application file will be directed to Technology Center 1600 for further processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

JIMMY L. FUNKE
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF MAIL CODE: CT10C
P.O. BOX 9005
KOKOMO, IN 46904-9005

COPY MAILED

JAN 05 2004

OFFICE OF PETITIONS

In re Application of :
Patrick A. Davis :
Application No. 10/209,532 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. DP-307382 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed February 11, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2003.

The application file is being forwarded to Technology Center 2800, Art Unit 2815 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 05-06

Paper No:__

ROBERT E. CANNUSCIO, ESQUIRE
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH & CHERRY STREETS
PHILADELPHIA PA 19103-6996

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Davidson, et al. :
Application No. 10/209,548 :
Filing Date: 31 July, 2002 :
Attorney Docket No.: 8830-115 (177260) :

DECISION

This is a decision on the petition filed on 16 December, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 6 April, 2005, with reply due absent an extension of time on or before 6 July, 2005;
- the instant application went abandoned by operation of law after midnight 6 July, 2005;
- the Office mailed the Notice of Abandonment on 14 November, 2005;
- on 16 December, 2005, Petitioner filed the instant petition and alleged, *inter alia*, non-

receipt of the Office action, and that–upon learning of the abandonment–Petitioner had obtained a copy of the Office action and filed a reply thereto in the form of an amendment; moreover, Petitioner evidenced with, *inter alia*, his office records and statements as to the processing and management of said records, the non-receipt of the Office action in question.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 14 November, 2005, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released and forwarded to Technology Center 1700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Gary L. Griffiths	:	
Serial No.: 10/209,592	:	WITHDRAWAL OF ATTORNEY
Filed: July 31, 2002	:	
Attorney Docket No.: 018733-1137	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office 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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

COPY MAILED

OCT 23 2008

OFFICE OF PETITIONS

In re Application of :
Philippe Monnier :
Application No. 10/209,597 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 02-F-706-850063.5911RI :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 17, 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 May 18, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

The proposed reply required for reconsideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

ROBERT IANNUCCI
701 FIFTH AVENUE
SUITE 5400
SEATTLE, WA 98104

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/209,597	**Applicant(s)** MONNIER, PHILIPPE	
	Examiner Y. Lee	**Art Unit** 2621	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 March 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: *Newly amended limitations raise new issues*. (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: *1-10,13 and 21-24*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *16-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Young Lee/
Primary Examiner
Art Unit: 2621

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Philippe Monnier	:	
Application No. 10/209,597	:	DECISION ON PETITION
Filed: July 30, 2002	:	
Attorney Docket No. 02-F-706-850063.5911RI	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 17, 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 May 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of 1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT IANNUCCI
701 FIFTH AVENUE
SUITE 5400
SEATTLE, WA 98104

PE JC139
NOV 0 1 2002
PATENT & TRADEMARK OFFICE

#4

Docket No. 220732US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Shoji TSUJI

SERIAL NUMBER: 10/209,609 ATTN: APPLICATION BRANCH

FILING DATE: August 1, 2002

FOR: APPLICATION OF APRATAXIN GENE TO DIAGNOSIS AND TREATMENT FOR EARLY-ONSET SPINOCEREBELLAR ATAXIA (EAOH)

FILING OF DECLARATION UNDER 37 CFR 1.53(f)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the notification dated September 11, 2002, and in accordance with the provisions of 37 CFR 1.53(f), Applicants submit herewith a Rule 63 Declaration.

The required fee was paid at the time of filing the application.

In light of the foregoing, this application is deemed to be in proper condition for examination and such favorable action is earnestly solicited.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Registration No. 24,618

22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/02)

OIPE JC136
NOV 01 2002
PATENT & TRADEMARK OFFICE

MAI

MP

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

ATTN: APPLICATION BRANCH

THIS IS A RESPONSE TO A NOTICE TO FILE MISSING PARTS OF AN APPLICATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Inventor: Shoji TSUJI
Serial No: 10/209,609
Filed: August 1, 2002
For: APPLICATION OF APRATAXIN GENE TO DIAGNOSIS AND TREATMENT FOR EARLY-ONSET SPINOCEREBELLAR ATAXIA (EAOH)

SIR:

Attached hereto for filing are the following papers:

Return Copy - Notice to File Missing Parts
Filing of Declaration Under 37 CFR 1.53(f)
Executed Declaration and Power of Attorney (3pgs.)

Our check in the amount of **$0.00** is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 CFR 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Docket No. 220732US0

Norman F. Oblon
Registration No. 24,618

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/02)

OIPE JC139 NOV 01 2002 PATENT & TRADEMARK OFFICE

#4

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
10/209,609	08/01/2002	Shoji Tsuki	220732US

CONFIRMATION NO. 5866

22850
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

FORMALITIES LETTER

OC000000008765982

Date Mailed: 09/11/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

11/20/2002 MMARMOL 00000001 10209609

01 FC:1051 130.00 OP
Adjustment date: 11/26/2002 MMARMOL
11/20/2002 MMARMOL 00000001 10209609
01 FC:1051 -130.00 OP

Repln. Ref: 11/20/2002 MMARMOL 0013091100
DA#:150030 Name/Number:10209609
FC: 9204 $96.00 CR

A copy of this notice MUST be returned with the reply.

Repln: 11/26/02 MMARMOL 0012493400
DA#: 150030 Name/Number: 10209609
FC: 9204 $130.00 CR

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
NOV 12 2002
PATENT & TRADEMARK OFFICE
JC34

0420

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

ATTN: APPLICATION BRANCH

THIS IS A RESPONSE TO A NOTICE TO FILE MISSING PARTS OF AN APPLICATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Inventor: Shoji TSUJI
Serial No: 10/209,609
Filed: August 1, 2002
For: APPLICATION OF APRATAXIN GENE TO DIAGNOSIS AND TREATMENT FOR EARLY-ONSET SPINOCEREBELLAR ATAXIA (EAOH)

SIR:

Attached hereto for filing are the following papers:

Return Copy – Notice to File Missing Parts
Response to Notice to File Missing Parts of Application
Copy of Declaration Filed November 1, 2002, 3pp, executed
Copy of Filing Receipt Dated November 1, 2002

Our check in the amount of **$130.00** is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 CFR 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Docket No. 220732US0

FO Vantine 27,013

Norman F. Oblon
Registration No. 24,618

22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/02)

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
10/209,609	08/01/2002	Shoji Tsuki	220732US0

CONFIRMATION NO. 5866

FORMALITIES LETTER

OC000000008765982

22850
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

OIPE
NOV 12 2002
JC34
PATENT & TRADEMARK OFFICE

Date Mailed: 09/11/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

11/13/2002 SDENBOB1 00000012 10209609
01 FC:1051 130.00 OP

A copy of this notice MUST be returned with the reply.

PE JC34
NOV 12 2002
PATENT & TRADEMARK OFFICE

Docket No.: 220732US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :

Shoji TSUKI et al. : ATTN: APPLICATION DIVISION

SERIAL NO: 10/209,609 :

FILED: AUGUST 1, 2001 :

FOR: APPLICATION OF APRATAXIN GENE TO DIAGNOSIS AND TREATMENT FOR EARLY-ONSET SPINOCEREBELLAR ATAXIA (EAOH)

RESPONSE TO NOTICE TO FILE
MISSING PARTS OF APPLICATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Notice to File Missing Parts of Application dated September 11, 2002, Applicants attach herewith a check in the amount of $130.00 for the late filing fee of oath or declaration as set forth in 37 CFR 1.16(l). The executed Declaration was filed on November 1, 2002, copies of which are attached herewith.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

11/7/013

Norman F. Oblon
Attorney of Record
Registration No. 24,618

22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 11/98)

UNITED STATES 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

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

COPY MAILED

JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Peter Large, et al. :
Application No. 10/209,613 : ON PETITION
Filed: July 29, 2002 :
Attorney Docket No.TRMB1194 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed August 30, 2002. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge. A Notice of Abandonment was mailed on December 31, 2003

In response, on January 15, 2004, the present petition was filed, as well as an executed declaration under 37 CFR 1.63. The $130 surcharge under 37 CFR 1.16(e) is being charged to counsel's deposit account as authorized.

In view of the above, the application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

CHOATE, HALL & STEWART LLP
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON MA 02110

COPY MAILED
MAR 04 2010

In re Application of	:	
Samuel J. Danishefsky, et al.	:	
Application No. 10/209,618	:	DECISION GRANTING PETITION
Filed: July 31, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2003080-0094 (SK-893-A US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 3, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
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 PAT[redacted]D TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

JANET M MCNICHOLAS PHD
MCANDREWS HELD & MALLOY LTD
500 W MADISON ST 34TH FLOOR
CHICAGO IL 60661

COPY MAILED

MAR 1 9 2003

OFFICE OF PETITIONS

In re Application of
Little, et al.
Application No. 10/209,621
Filed: July 30, 2002
Attorney Docket No. 11044US04 / 100-256.P1.C2

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(b), filed December 17, 2002, which is being treated as a petition under 37 CFR 1.47(a).[1]

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 30, 2002, without an oath or declaration. Accordingly, on September 17, 2002, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time. Accompanying the petition were, *inter alia*, a statement of facts in support of the petition and a declaration executed by joint inventors Jong-Jve Lin and J.G. Kinyua Gikonyo, but lacking a signature from joint inventor Roger G. Little, II.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, petitioner stated that she sent a complete copy of the above-identified application (including specification, sequence listing, and declaration) to the last known address of joint inventor Little on four separate occasions - October 24, November 5, November 15, and December 5, 2002. However, according to petitioner, no executed declaration from Little has been received.

[1] A petition under 37 CFR 1.47(b) only applies when all of the inventors refuse to execute an application for patent. Here, two of the joint inventors have executed the declaration. Accordingly, the petition is treated as a petition under 37 CFR 1.47(a) to make the application on behalf of themselves and the nonsigning inventor.

Application No. 10/209,621

The petition filed on December 17, 2002 has been reviewed and found to be in compliance with 37 CFR 1.47(a). The declaration executed by inventors Lin and Gikonyo, on behalf of themselves and on behalf of non-signing inventor Little, has been reviewed and found to be in compliance with 37 CFR 1.63.

Accordingly, this application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEUSSE WOLTER SANKS MORA & MAIRE, P.A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of :
Douglas K. Dew :
Application No. 10/209,647 : DECISION GRANTING PETITION
Filed: July 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 24064-003 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed January 12, 2007, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time submitted with the petition on October 14, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3626 to consider the reply received October 14, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILMER CUTLER PICKERING HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLANIA AVENUE NW
WASHINGTON, DC 20004

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Ting-Fung Chi et al :
Application No. 10/209,664 : DECISION GRANTING PETITION
Filed: August 1, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 39366-0004 :

This is a decision on the petition, filed June 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Heller Ehrman White & McAuliffe, LLP
275 Middlefield Road
Menlo Park, CA 94025

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Ramin Najafi, et al. :
Application No. 10/209,681 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 39164-0002P1 :

This is a decision on the petition under 37 CFR 1.182, filed August 12, 2004, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Ramin Najafi
2. Suzanne Bernard
3. Jack O'Reilly
4. Mansour Bassiri Davis
5. Nader Namdar

This application is being referred to Technology Center 1600 to await a reply to the Final Office action mailed January 19, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Heller Ehrman White & McAuliffe, LLP
275 Middlefield Road
Menlo Park, CA 94025

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Ramin Najafi, et al. :
Application No. 10/209,681 : ON PETITION
Filed: July 30, 2002 :
Attorney Docket No. 39164-0002P1 :

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.182, filed August 12, 2004, to change the order of the names of the inventors.

The petition is granted.

The previous decision mailed February 18, 2005 contained an error in the name of the fourth inventor. The inventor's name was inadvertently listed as "Mansour Bassiri Davis," wherein it should have been listed as "Mansour Bassiri." In view thereof, the previous decision is hereby vacated.

The order of the names of the inventors will be changed as follows:

1. Ramin Najafi
2. Suzanne Bernard
3. Jack O'Reilly
4. Mansour Bassiri
5. Nader Namdar

This application is, again, being referred to Technology Center 1600 to await a reply to the Final Office action mailed January 19, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CASIMIR F. LASKA
MICHAEL BEST & FRIEDRICH
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4108

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OCT 26 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James J. Dehn et al :
Application No. 10/209,687 :
Filed: August 1, 2002 :
Attorney Docket No. 018367-9745-00 :

This is a decision on the petition under 37 CFR 1.313, filed October 18, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN, PC
416 COFFMAN STREET
LONGMONT CO 80501

COPY MAILED

APR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Christopher Allen Riggio, Jeffrey Michael Buske, David R. Thompson, Lyle J. Stahle, Nathan J. Hunter, and Garth Blair Woodland :
Application No. 10/209,728 : DECISION NOTING JOINDER AND
Filed: July 22, 2002 : DISMISSING PETITION UNDER
Attorney Docket No. RM386g : 37 C.F.R. §1.47(a) AS MOOT
Title: TWO-STAGE CONVERTER USING LOW PERMEABILITY MAGNETICS :

This is in response to the petition under 37 C.F.R. 1.47(a)[1], filed October 31, 2002.

The petition is **DISMISSED AS MOOT**.

On July 22, 2002, the application was deposited, identifying Christopher Allen Riggio, Jeffrey Michael Buske, David R. Thompson, Lyle J. Stahle, Nathan J. Hunter, and Garth Blair Woodland as joint inventors. The application was deposited with a declaration which was executed only by inventor Buske. On August 27, 2002, a "Notice to File Missing Parts of

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $65.00 were required[2]. This Notice set a two-month period for reply.

In reply, applicant filed the petition (and fee) on October 25, 2002, including the surcharge. Petitioner also included a declaration signed by inventors Riggio, Buske, Thompson, Stahle, and Hunter.

On November 14, 2002, petitioner submitted a request to withdraw the above-mentioned petition, along with a declaration executed by inventors Buske, and Woodland.

This declaration has been reviewed and found in compliance with 37 §CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered 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 file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

2 The Notice also stated that Figure 15 appeared to have been omitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Hiebert
Application No. 10/209,748
Filed: July 31, 2002
Attorney Docket No. 100111261-1

DECISION GRANTING
PETITION

This is a decision on the petition entitled, "PETITION TO ESTABLISH APPLICANT'S ENTITLEMENT TO PREVIOUSLY-GRANTED FILING DATE", filed November 12, 2002 (certificate of mailing date November 7, 2002), requesting that the computer-readable Appendices A-D be accorded a July 31, 2002 filing date. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on July 31, 2002. On September 23, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that the duplicate sets of compact discs do not contain all of the files listed in the specification as shown on the disc directory printout showing file names, dates of creation and sizes.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the computer-readable Appendices A-D be accorded a July 31, 2002 filing date on the basis that the allegedly missing files were uploaded into the HP patent applications server on July 31, 2002.

The evidence presented in support of the petition is not persuasive. An upload to the HP patent applications server does not prove that the discs mailed to the Office contained the information that was presumably successfully uploaded.

However, a review of one of the discs submitted on July 31, 2002 reveals that Appendices A-D were present. The description of the appendices in the specification lacked detail. Applicant did not comply with Rule 52(e) by specifying the names of the files, the file size, creation date, etc. Put simply, what was on the disk did not match the description in the specification. Therefore, the Office was not in error when it mailed the September 23, 2002 Notice.

Nevertheless, petitioner is entitled to a filing date as of the date that the appendices were present in the Office. Accordingly, the request is granted.

The $130.00 petition fee will not be refunded, as a petition was required to correct applicant's filing error.

Petitioner is informed that the July 31, 2002 disk contains 117 files in Appendix D and the November 2, 2002 disk contains 114 files in Appendix D. It appears that the replacement disk is missing the last three files.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of July 31, 2002, using the discs filed on July 31, 2002.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED
JUN 2 2 2006
OFFICE OF PETITIONS

In re Application of :
Heibert :
Application No. 10/209,748 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 100111261-1 :
For: PRESERVING CONTENT OR ATTRIBUTE INFORMATION DURING CONVERSION FROM A STRUCTURED DOCUMENT TO A COMPUTER PROGRAM

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2005 (certificate of mailing November 10, 2005), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed March 9, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2005 for failure to reply. A Notice of Abandonment was mailed on November 1, 2005.

Petitioner has submitted an amendment in reply to the March 9, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 9, 2005 non-final Office action, and the required petition fee.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 2176 for consideration of the amendment filed on November 15, 2005 (certificate of mailing date November 10, 2005).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 30 2005

LICATTA & TYRRELL, PC
66 EAST MAIN STREET
MARLTON, NJ 08053

In re Application of	:
David Seifer et al	:
Serial No.: 10/209,779	: PETITION DECISION
Filed: July 31, 2002	:
Attorney Docket No.: UMD-0068	:

This is in response to the petition under 37 CFR 1.181, filed July 22, 2005, requesting withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants' previous attorney, Tyrell J. Rettke, on October 19, 2004, setting a three month statutory period for payment of the Issue Fee. Applicant had properly filed a Notice of Change of Correspondence Address with the Office via facsimile on August 31, 2004, but the change was not entered in the Office database. A Notice of Abandonment was mailed to applicants on February 28, 2005, for failure to pay the Issue Fee. In view of the Office error in not utilizing the correct correspondence address, the Notice of Abandonment 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 mailing of a new Notice of Allowance and Issue Fee Due and Notice of Allowability to the correct address.

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
Director, Technology Center 1600

Please Direct All Correspondence to Customer Number **20995**

Applicant	:	Thill, et al.
App. No	:	10/209,797
Filed	:	July 30, 2002
For	:	TISSUE OPENING OCCLUDER
Examiner	:	Elizabeth Houston
Art Unit	:	3731

CERTIFICATE OF EFS WEB TRANSMISSION

I hereby certify that this correspondence, and any other attachment noted on the automated Acknowledgement Receipt, is being transmitted from within the Pacific Time zone to the Commissioner for Patents via the EFS Web server on:

August 9, 2007
(Date)

Terry K. Tullis, Reg. No. 59,856

PETITION TO CORRECT INVENTORSHIP
UNDER 37 C.F.R. § 1.48(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
9/4/07.

Dear Sir:

Applicant respectfully requests that inventorship in the above-referenced application be corrected to reflect the deletion of Gary A. Thill and Paul R. Barratt pursuant to 37 CFR 1.48(b). Applicant, through the undersigned party set forth in § 1.33(b), acknowledges that the inventions of Gary A. Thill and Paul R. Barratt are no longer being claimed due to an amendment or cancellation of claims in the prosecution in the above-referenced nonprovisional application.

Thus, the resulting listing of inventors should only include the remaining inventors as follows :

Jana F. Oman

Michelle M. Young

Applicant submits a processing fee of $130 as directed under 37 CFR 1.17(i).

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-9-07

By: _____

Terry K. Tullis
Registration No. 59,856
Attorney of Record
Customer No. 20,995
(949) 760-0404

4115364
080807

Please enter 8/30/07

Docket No.: EV3.062A

August 9, 2007

Please Direct All Correspondence to Customer Number **20995**

Applicant	:	Thill, et al.
App. No	:	10/209,797
Filed	:	July 30, 2002
For	:	TISSUE OPENING OCCLUDER
Examiner	:	Elizabeth Houston
Art Unit	:	3731

CERTIFICATE OF EFS WEB TRANSMISSION

I hereby certify that this correspondence, and any other attachment noted on the automated Acknowledgement Receipt, is being transmitted from within the Pacific Time zone to the Commissioner for Patents via the EFS Web server on:

August 9, 2007
(Date)

Terry K. Willis, Reg. No. 59,856

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests that inventorship in the above-referenced application be corrected to reflect the deletion of Gary A. Thill and Paul R. Barratt pursuant to 37 CFR 1.48(b). Applicant, through the undersigned party set forth in § 1.33(b), acknowledges that the inventions of Gary A. Thill and Paul R. Barratt are no longer being claimed due to an amendment or cancellation of claims in the prosecution in the above-referenced nonprovisional application.

Thus, the resulting listing of inventors should only include the remaining inventors as follows :

Jana F. Oman

Michelle M. Young

Applicant submits a processing fee of $130 as directed under 37 CFR 1.17(i).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 2, 2008

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No 10/209797 patent no7288105

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

ANHTUAN T. NGUYEN
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

DEC -1 2004

In re Application of Kevin Goodman Serial No. 10/209,800 Filed: July 26, 2002 For: INSTANT CONCRETE	:	DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on June 29, 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:

Kevin K. Goodman
9709 Polaris Drive
Louisville, KY 40229

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel
Neustel Law Offices, Ltd.
2534 S. University Drive, Suite 4
Fargo, ND 58103

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

JUN 24 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Anthony Asquith
Suite 28
461 Columbia St. West
Waterloo, Ontario
Canada N2T 2P5

In re Application of
Arthur A. Key et. al.
Application No. 10/209,887
Filed: August 2, 2002
Attorney Docket No.: 630-40US
For: PRESS-FORMED KEYWAY
FOR HEADREST MOUNTING TUBE

DECISION ON PETITION
TO INVOKE SUPERVISORY
AUTHORITY
UNDER 37 CFR 1.144

This is in response to applicant's petition to invoke supervisory authority under 37 CFR 1.181 filed April 7, 2004 which will be treated as a petition under 37 CFR 1.144 requesting reconsideration of the restriction requirement initially set forth in the Office action of April 8, 2003 and made final in the Office action of July 17, 2003.

The petition is **DISMISSED**.

The petition (April 7, 2003) was filed after the date of the Notice of Appeal (February 25, 2004) and therefore, is untimely. See 37 CFR 1.144.

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 1.144".

John J. Love, Director
Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 872-9306

PMC 6/22/04

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

LEYDIG VOIT & MAYER, LTD.
700 THIRTEENTH ST., NW
SUITE 300
WASHINGTON, DC 20005

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of :
Juen Yat Jovial Chu :
Application No. 10/209,929 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 402197 :

This is a decision on the petition under 37 CFR 1.182, filed November 5, 2002, to correct the spelling of the name of the named inventor.

The petition is GRANTED.

The full name of the named inventor will be changed from "J.Y. CHU" to -- **JUEN YAT JOVIAL CHU** --.

The file is being forwarded to Technology Center 1700 via the Office of Initial Patent Examination to change Office records to reflect the correct spelling of the named inventor's full name as noted above.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAR 28 2003

#5

HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of	:	
John Litvay	:	PETITION DECISION
Serial No.: 10/209,938	:	
Filed: August 2, 2002	:	
For: Multi-Functional Tissue For Absorbent Articles	:	

This is in response to the petition applicant filed on January 31, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700 Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
TROUPE et al. :
Application No. 10/209,939 : DECISION ON PETITION
Filed: 08/02/2002 :
Attorney Docket No. P20931US :

This is a decision on the petition under 37 CFR 1.181, filed January 21, 2009, to withdraw the holding of abandonment in the above-identified application.

On May 29, 2008, the Office mailed a Notice to Non-Compliant Amendment, which set a period of one month or thirty days, whichever was later, to respond. In the absence of the timely reply, the application became abandoned on June 30, 2008. On December 24, 2008, the Office mailed a Notice of Abandonment.

The practitioner asserts that the Notice to Non-Compliant Amendment was not received.

A review of the written record indicates no irregularity in the mailing of the Notice to Non-Compliant Amendment and in the absence of any irregularity, there is a strong presumption that the Office communication was properly mailed to the practitioner at the address of record on that date. This presumption may be overcome by a showing that the Notice to Non-Compliant Amendment was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable

regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the evidence submitted on petition, the Office concludes that the showing of record is insufficient at this time to warrant withdrawal of the holding of abandonment. In accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the Notice to Non-Compliant Amendment should include the master docket for the firm. In this instance, the practitioner did not submit a copy of the master docket showing all replies docketed for a date one month from the mail date of the non-received Office communication as documentary proof of non-receipt of the Notice to Non-Compliant Amendment. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. Additionally, petitioner should include a statement from the practitioner indicating that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, reveals that the Notice was not received at the correspondence address of record.

In view thereof, the petition to withdraw the holding of abandonment is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision 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

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United States Patent and Trademark Office
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JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
TROUPE et al. :
Application No. 10/209,939 : DECISION ON PETITION
Filed: 08/02/2002 :
Attorney Docket No. P20931US :

This is a decision on the renewed petition under 37 CFR 1.181, filed June 29, 2009, to withdraw the holding of abandonment in the above-identified application.

On May 29, 2008, the Office mailed a Notice of Non-Compliant Amendment, which set a period of one month or thirty days, whichever was later, to respond. In the absence of the timely reply, the application became abandoned on June 30, 2008. On December 24, 2008, the Office mailed a Notice of Abandonment.

The practitioner asserts that the Notice of Non-Compliant Amendment was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment and in the absence of any irregularity, there is a strong presumption that the Office communication was properly mailed to the practitioner at the address of record on that date. This presumption may be overcome by a showing that the Notice of Non-Compliant Amendment was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable

regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the evidence submitted on renewed petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. In accordance with MPEP 711.03(c), the practitioner submitted a copy of the master docket showing all replies docketed for a date one month from the mail date of the non-received Office communication as documentary proof of non-receipt of the Notice of Non-Compliant Amendment. Additionally, the practitioner included a statement indicating that a search of practitioner's records reveals that the Notice of Non-Compliant Amendment was not received at the correspondence address of record.

In view thereof, the renewed petition to withdraw the holding of abandonment is **GRANTED**. The application is returned to pending status.

This application is being referred to Technology Center Art Unit 3664 for action on the reply.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL Paper No. 7

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: :
Dajer et al. : DECISION
Application No. 10/209,944 : ON PETITION
Filed: August 2, 2002 :
For: DYNAMIC PATH GAIN COMPENSATION FOR RADIOS IN WIRELESS COMMUNICATION SYSTEMS :

This is a decision on the petition filed July 1, 2003 and the supplemental petition received by facsimile July 16, 2003 to withdraw the holding of abandonment. No fee is required.

The application is abandoned for failure to timely pay the required issue fee within the three month statutory period from the Notice of Allowance mailed January 27, 2003. A Notice of Abandonment was mailed June 17, 2003.

Petitioner alleges that the Notice of Allowance was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) 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

(c) 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 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.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the Patent and Trademark Office.

Petitioner has meet requirements (a)-(c) above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED.**

A Notice of Allowability was mailed along with the Notice of Allowance. Since it has been established that the Notice of Allowance was not received, it is presumed that Petitioner also failed to receive the Notice of Allowability. The Notice of Allowance is vacated.

The application file will be forwarded to the Technology Center's technical support staff for issuing a new Notice of Allowance and Issue Fee Due and Notice of Allowability. The period for response will be reset to run from the mailing date thereof.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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David L. Parker
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

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JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,629,153	:	DECISION ON REQUEST
Didier Trono et al.	:	FOR
Issue Date: December 08, 2009	:	RECONSIDERATION OF
Application No. 10/209,952	:	PATENT TERM ADJUSTMENT
Filed: August 1, 2002	:	and
Atty Docket No. CLFR:011US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 26, 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 one thousand, one hundred and eighty-six (1186) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and eighty-five (1185) 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 2, 2005, and ends on June 11, 2008, the day before the RCE was filed, and is 1185 (not 1186) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1185, not 1186 days.

Deposit account 19-0741 will be charged $200.00 for the fee required by 37 CFR 1.18(e).

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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and eight-five (1185) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,629,153 B2

DATED : Dec. 8, 2009

INVENTOR(S) : Trono 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 (639) days

Delete the phrase "by 639 days" and insert – by 1185 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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JAN 2 2 2003

OFFICE OF PETITIONS

In re Application of
Mondal
Application No. 10/209,964
Filed: July 31, 2002
Attorney Docket No. 39219-0002
For: METHOD AND SYSTEM FOR PROVIDING RELIABLE AND FAST COMMUNICATIONS WITH MOBILE ENTITIES

DECISION DISMISSING PETITION

This is a decision on the petition filed December 17, 2002, requesting review of a determination that a sheet of drawing containing Figure 1 was omitted on July 31, 2002, the filing date of the above-identified application.

The application was filed on July 31, 2002. However, on December 9, 2002, the Office of Initial Patent Examination mailed a notice stating that the application had been accorded a filing date of July 31, 2002, but advising applicant that drawing of Figure 1 described in the specification appeared to have been omitted.

In response, on December 17, 2002, a sheet of drawing containing Figure 1 and the present petition and required petition fee were filed. Petitioner argues that 5 sheets of drawings, including Figure 1, were filed on July 31, 2002, and that the sheet of drawing containing Figure 1 must have been misplaced in the Patent and Trademark Office (Office). In support, the petition is accompanied by a copy of applicant's date stamped return postcard receipt showing 5 sheets of drawings were received in the Office on July 31, 2002.

The best evidence of what was filed on July 31, 2002 is applicant's postcard receipt. In this case, applicant's postcard receipt identifies 5 sheets of drawings as papers being filed. In fact, 5 sheets of drawings were filed on July 31, 2002, as shown by the official file.

A review of the contents of the file reveals that 5 sheets of drawings were, in fact, filed on July 31, 2002, and are presently in the file. However, no drawing containing Figure 1 (other than that supplied on December 17, 2002) is present. The file contains drawings of Figures 2(a), 2(b),3,4,5, and 6. Thus, the file shows that no sheet of drawing containing Figure 1 was filed on July 31, 2002.

The petition is **dismissed**.

Since the petition does not request that the application be accorded the date of receipt of the drawing containing Figure 1 as the filing date and no oath or declaration signed by the inventor and referring to the drawing of Figure 1 filed on December 17, 2002 (see "Notice" mailed December 9, 2002) has been filed, the application will be processed with a filing date of July 31,

2002, using the 5 sheets of drawing filed on that date. The drawing containing Figure 1 filed on December 17, 2002, will not be entered.

An amendment canceling the references to Figure 1 in the specification and renumbering the drawing figures should be filed prior to the first Office action in order to avoid further delays in the examination of the application.

Of course, applicant may submit the drawing of Figure 1 as an amendment to the drawings in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 31, 2002, and indication in Office records that 5 sheets of drawings were present on filing. As stated above, Figure 1 will not be entered.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 7

VINSON & ELKINS L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

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FEB 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Mario I. Romero-Ortega et al :
Application No. 10/209,966 : DECISION GRANTING
Filed: August 1, 2002 :STATUS UNDER 37 CFR 1.47(a)
For: TRANSPARENT MULTI-CHANNEL :
CELL SCAFFOLD THAT CREATES A :
CELLULAR AND/OR MOLECULAR
GRADIENT

This is in response to the petition under 37 CFR 1.47(a), filed November 14, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The power of attorney filed concurrently with the petition is not acceptable and will not be entered since compliance with 37 CFR 3.73(b) has not been satisfied.

It is noted that two assignment documents accompanied the instant petition under 37 CFR 1.47(a). However, there is no indication that an assignment cover sheet accompanied these assignments. Therefore, if petitioner desires to have the assignments recorded, an assignment cover sheet must also be submitted.

In the instant case, Kimberly Simpson, has not satisfactorily established ownership of the property to the satisfaction of the Commissioner. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the

assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Certificate Under 37 CFR 3.73(b) accompanies this decision which, when properly completed, will satisfy the requirements of 37 CFR 3.73(b).

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center AU 1651 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Certificate Under 37 CFR 3.73(b)

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OFFICE OF PETITIONS

In re Application of
Mario I. Romero-Ortega; Mauricio R. Delgado-Ayala; Pedro J. Galvan; Hua Liu
Application No. 10/209,966
Filed: August 1, 2002
For: TRANSPARENT MULTI-CHANNEL CELL SCAFFOLD THAT CREATES A CELLULAR AND/OR MOLECULAR GRADIENT

Dear Inventor Liu:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Vinson & Elkins L.L.P.
1001 Fannin Street
2300 First City Tower
Houston, TX 77002-6760

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TC 3600

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of :
Martin Grillenberger et al :
Application No. 10/209,970 :
Filed: August 2, 2002 :
Attorney Docket No.: 225/51388 :
For: AUTOMATED NON-SYNCHRONIZED :
GEAR-CHANGE TRANSMISSION AND :
METHOD FOR GEAR CHANGE IN SUCH
A TRANSMISSION

DECISION ON PETITION
UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed August 24, 2004 requesting withdrawal of the finality of the Office action mailed August 4, 2004.

The petition is **GRANTED.**

The record reflects that on December 4, 2003 a non-final Office action was mailed rejecting claims 1-5, 7-13, and 15 under 35 U.S.C. 102, rejecting claims 1-3, 8, 14, and 16 under 35 U.S.C. 103, and objecting to claims 6 and 12 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. On May 4, 2004 applicant filed an amendment-amending claim 1. On August 4, 2004 a final Office action was mailed rejecting claims 1-5, 7-11, and 13-16 under 35 U.S.C. 103 and objecting to claims 6 and 12 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the petition filed August 24, 2004 to withdraw the finality of the Office action mailed May 10, 2004, applicant argues that the amendment of May 4, 2004 does not necessitate a new grounds of rejection because it only replaced the word "configured" with the word "actuated" in claim 1 to more appropriately define the invention and that neither the rejections in the previous Office action nor the arguments in applicant's response rely on the word "configured" and therefore, the replacement of the word

cannot alter the propriety of the Examiner's rejections, the validity of applicant's arguments, or necessitate a new grounds of rejection.

37 CFR 1.181(f) states: 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 provide. This two-month period is not extendable.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

With regard to the propriety of the finality of the office action mailed August 4, 2004, the fact that applicant did not argue changing the word "configured" to "actuated" in claim 1 defines over the prior art rejections is not to the point. The issue is whether or not the amendment to claim 1 changed the meaning of the claim in a manner that defined over the previous prior art rejections and would have thus required new grounds of rejection. The amendment to claim 1, filed August 4, 2004, overcomes the 35 U.S.C. 102 rejection over Yuge because the reference to Yuge modified the flow cross-section passively without any actuation. For the same reasons the 35 U.S.C. 103 rejection of claims 1-3, 8, and 14 over Richards in view of Yuge was also overcome by the claim amendment. However, the rejection of claims 1-5, and 7-13 under 35 U.S.C. 102 over Tane et al was withdrawn because the reference to Tane et al did not teach or suggest a pump that is driven at least indirectly by the transmission input shaft. Therefore, the new grounds of rejection of claims 4 and 5 were not necessitated by the August 4, 2004 amendment.

The petition is **GRANTED.**

Robert J. Oberleitner, Director
Patent Technology Center 3600
Telephone No.: (703) 308-1134

Db/snm: 9/21/04
SM

UNITED STATES PATENT AND TRADEMARK OFFICE

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

AUG 12 2004

OFFICE OF PETITIONS

Applicant: Altman
Appl. No.: 10/210,023
Filing Date: October 23, 2001
Title: STABILIZED BIOACTIVE PEPTIDES AND METHODS OF IDENTIFICATION, SYNTHESIS, AND USE
Attorney Docket No.: 235.00010120
Pub. No.: US 2003/0190740 A1
Pub. Date: October 9, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on December 9, 2003 for above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the wrong correspondence address on the front page of the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the correspondence address is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the correspondence address does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant's request for a corrected patent application publication on December 9, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/14/06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 10210063

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 03-03

Paper No. 9

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Michael, Peterelt, and Lehman :
Application No. 10/210,068 : DECISION ACCORDING STATUS
Filed: 2 August, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 226152US0 CONT :

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 20 December, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Jacob Gabriel Michael, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the letters sent on 2 October, 2002, that a copy of the above-identified application was sent to the non-signing inventor. Additionally, a copy of the declaration was sent again to the non-signing inventor on 26 November, 2002. The non-signing inventor, however, has failed to return an executed declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

---

[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.

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 the Initial Patent Examination Division for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Bonhoeffer et al. :
Application No. 10/210,085 :
Filed: August 2, 2002 : ON PETITION
Attorney Docket Number: :
07117.0011 :

This is a decision on the "Petition to Withdraw the Erroneous Holding of Abandonment", filed June 30, 2006. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 15, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on November 1, 2005 but did not include a petition for an extension of time. No timely and proper reply having been received, the application became abandoned on October 16, 2005. A Notice of Abandonment was mailed on June 9, 2006.

Applicant's Assertion

Applicant asserts that the reply to the non-final Office action, filed November 1, 2005, included a request to charge extensions of time and authorization to charge the necessary fees and, as such, the reply was timely filed.

Analysis

A review of Application file reveals that Applicant included in the Remarks section of the amendment filed November 1, 2005 a request to grant any extensions of time required to enter the response and an authorization to charge any additional fees required to Applicant's deposit account.

Conclusion

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due. The fee for a one (1) month extension of time has been charged to Applicant's deposit account as authorized in the Remarks filed with the amendment on November 1, 2005.

The application file is being referred to Technology Center Art Unit 3731 for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUN 0 9 2008

In re Application of :

BONHOEFFER, et al. :
Application No. 10/210,085 : DECISION ON PETITION
Filed: August 2, 2002 : TO WITHDRAW
Attorney Docket No. **07117.0011** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 16, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles E. Van Horn on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Philipp Bonhoeffer at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PHILIPP BONHOEFFER**
12 RUE BOUTEBRIE
PARIS, FRANCE 75005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
Bonhoeffer et al. :
Application No. 10/210085 :
Filing or 371(c) Date: 08/02/2002 : ON PETITION
Title of Invention: :
IMPLANT IMPLANTATION UNIT AND :
PROCEDURE FOR IMPLANTING THE UNIT:

This is a decision on the "Petition Under 37 CFR 1.182 and MPEP 402.10 to Permit Inventor Bonhoeffer to Prosecute the Application to the Exclusion of Partial Assignee Jenavalve," filed May 22, 2008. The petition is properly treated under 37 CFR 1.183, requesting waiver of 37 CFR 1.32(b)(4), to allow inventor Bonhoeffer (one if two inventors) to give a Power of Attorney. Petitioner also requests suspension of action under 37 CFR 1.103(a).

This also a Decision on the Petition Under 37 CFR 1.183 to Permit Appointment of a Power of Attorney by Less Than all Applicants, filed June 9, 2008, by the other of the two inventors, inventor Boudjemline.

The petitions are granted to the extent indicated herein.

Background

The application was filed on August 2, 2002, and included an oath/declaration executed by inventors Philipp Bonhoeffer and Younes Boudjemline, appointing the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., to prosecute the application. On July 24, 2007, inventor Younes Boudjemline assigned his interest in the application to Jencardiotec, Inc. Jencardiotec, Inc., filed a Change of Name with this Office, also on July 24, 2007, wherein its name was changed to JenaValve Technology, Inc., ("JenaValve").

Petitioner files the present petition on behalf of inventor Philipp Bonhoeffer to allow inventor Philipp Bonhoeffer to prosecute the application to the exclusion of JenaValve. In support of this request, Petitioner states that inventor Bonhoeffer and JenaValve disagree on how to prosecute the application. Inventor Bonhoeffer asserts that counsel prosecuting the application should take instructions only from inventor Bonhoeffer. Inventor Bonhoeffer states that JenaValve insists on being fully involved in instructing the appointed representative.

Review of Office records

Office records reveal that the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., filed a petition to withdraw from representation in the present application on April 16, 2008, and the petition was granted in a Decision mailed June 9, 2008. Office records further reveal that inventor Bonhoeffer appointed the law firm of Oblon, Spivak, McClelland Maier & Neustadt, P.C. to represent him in a Power of Attorney filed June 6, 2006.

Also on June 6, 2008, the law firm of O'Brien Jones, PLLC, filed a "petition Under 37 CFR 1.136 and MPEP 710.02(d) to Further Extend Due Date for Filing Appeal Brief." Thereafter, on June 9, 2008, JenaValve filed a Power of Attorney appointing O'Brien Jones, PLLC as their representative to prosecute the present application. Also on June 9, 2008, O'Brien Jones filed a "Petition Under 37 CFR 1.183 to Permit Appointment of a Power of Attorney by Less Than all Applicants," and an "Opposition to Petition Under 37 CFR 1.182 and MPEP 402.10 to Permit Inventor Bonhoeffer to Prosecute the Application to the Exclusion of Partial Assignee Jenavalve."

Applicable Law, Rules and MPEP

The Manual of Patent Examining Procedure ("MPEP") § 402.10, Appointment/Revocation by Less Than All Applicants or Owners, provides

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors (i.e., the applicant) who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.36(a) or 1.183. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.36(a) or 1.183 submitted by a previously nonsigning inventor who has now joined in the application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the

> application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree to a different correspondence address. Each attorney or agent signing subsequent papers must indicate whom he or she represents. The following are examples of who must sign replies when there is more than one person responsible for prosecuting the application:
> (A) If coinventor A has given a power of attorney to a patent practitioner and coinventor B has not, replies must be signed by the patent practitioner of A and by coinventor B.
> (B) If coinventors A and B have each appointed their own patent practitioner, replies must be signed by both patent practitioners.

The Office will conduct correspondence with the attorneys first named in the application, Oblon, Spivak, McClelland Maier & Neustadt, P.C., at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office, with O'Brien Jones, PLLC. *See*, Manual of Patent Examining Procedure ("MPEP") 402.10.

To the extent that petitions requests that the inventor be allowed to appoint their own patent practitioners, the petitions are granted. The request to exclude JenaValve is dismissed.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

Regarding the request to suspend action, the request is not proper. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A patent practitioner of record appointed in compliance with § 1.32(b)[1];
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34[2];
> (3) An assignee as provided for under § 3.71(b)[3] 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.

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[1] 37 CFR 1.32(b), states that a power of attorney must:
(1) Be in writing;
(2) Name one or more representatives in compliance with (c) of this section;
(3) Give the representative power to act on behalf of the principal; and
(4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

[2] The Office reserves the right under 37 CFR 1.34, to require "[f]urther proof of authority to act in a representative capacity." In this instance, the Office knows that the petition was not filed by all parties in interest in the application.

[3] 37 CFR 3.71(b) requires the assignee to be an assignee of the entire right, title and interest in an application.

The MPEP 714.01(a), Unsigned or Improperly Signed Amendment, proves instructive. It states: "An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant." (Emphasis supplied).

Therefore, as the request to suspend prosecution is not signed by all applicants (or all applicants representatives), the request is not proper.

This application is being returned to Technology Center Art Unit 3731 for continued examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

OIPE IAP40 SEP 02 2005 PATENT & TRADEMARK OFFICE

AF/ TD

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	10/210,086
Filing Date	August 2, 2002
First Named Inventor	Ching-Hsiang HSU
Art Unit	1631
Examiner Name	J. Brusca
Attorney Docket Number	006751.00001

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registrations numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number 22907

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: Our client, a foreign law firm, has withdrawn from its representation in this application. We have tried to communicate directly with the owner of the application by facsimile and mail, and have not received any response. The owner of the application has also not responded to our offer t enter into an attorney-client relationship with our law firm.

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	Dr. Wei-Chih Su				
Address	Taimont Biotech Inc.				
Address	No. 1, Dali 2nd Road				
City	Shanhua Town	State	Tainan County	ZIP	741
Country	R.O.C. (Taiwan)				
Telephone	886-6-5052755, ext. 2101	Fax	886-6-5053130		

Name	Sarah A. Kagan		
Signature	Sarah A Kagan	Registration No.	32,141
Date	September 2, 2005	Telephone No.	202.824.3000

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.

MCS 11/3/05

APPROVED

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

EUGENE J.A. GIERCZAK
MILLER THOMSON, LLP
SUITE 2500
20 QUEEN STREET WEST
TORONTO ON M5H 3S1 CA CANADA

COPY MAILED

JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Jorge M. Goncalves et al. :
Application No. 10/210,100 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 8734-22/ejg :

This is a decision on the petition filed December 21, 2007 under 37 CFR 1.137(b). [1], to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

The instant application became abandoned on February 27, 2006, for failure to timely reply to the Final Office Action mailed August 24, 2005, which set a three (3) month shortened statutory period for reply. A response with a three month extension of time was filed February 23, 2006 but by Advisory Action mailed March 16, 2006, petitioner was advised that the response filed did not place the application in condition for allowance. In view thereof, a Notice of Abandonment was mailed April 12, 2006.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition filed December 21, 2007 however is not acceptable as it is not signed in compliance with 37 CFR 1.4 and therefore cannot be treated on its merits and will not receive any consideration until such time as a signed petition has been submitted.

A request for reconsideration with the appropriate fees 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
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EUGENE J.A. GIERCZAK
MILLER THOMSON, LLP
SUITE 2500
20 QUEEN STREET WEST
TORONTO ON M5H 3S1 CA CANADA

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FEB 21 2008

OFFICE OF PETITIONS

In re Application of :
Jorge M. Goncalves et al. :
Application No. 10/210,100 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 8734-22/ejg :

This is a decision on the renewed petition filed February 13, 2008 under 37 CFR 1.137(b). [1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 27, 2006, for failure to timely reply to the Final Office Action mailed August 24, 2005, which set a three (3) month shortened statutory period for reply. A response with a three month extension of time was filed February 23, 2006 but by Advisory Action mailed March 16, 2006, petitioner was advised that the response filed did not place the application in condition for allowance. In view thereof, a Notice of Abandonment was mailed April 12, 2006. A petition filed December 21, 2007 under 37 CFR 1.137(b) was dismissed as it was not signed in compliance with 37 CFR 1.4 and therefore could not be treated on its merits.

Comes no petitioner with the instant renewed "signed" petition with a request to have an RCE filed May 11, 2006 and amendment previously filed on February 23, 2006 as

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b) a grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the submission required under 37 CFR 1.114entered.

Petitioner's deposit account no. 50-2385 will be charged in the amount of $405.00 for the RCE.

This matter is being referred to Technology Center 3683 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

SPE C. Low

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/25/06

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/210,113 Patent No.: 6784177

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

Re: Requests filed 4/3/06:

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: Respecting the changes to the drawings, such are approved because (1) the correction is not subject to reasonable debate on consideration of the claim language + specification AND (2) the prosecution history does not suggest a different interpretation, (see MPEP § 1481)

Andrew Marshall — SPE

1614 — Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENELL LAWSON
INTLLECTUAL PROPERTY
CURAGEN CORPORATION
555 LONG WHARF DRIVE
NEW HAVEN CT 06551

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
Li Li :
Application No. 10/210,130 : ON PETITION
Filed: August 1, 2002 :
Atty Docket No. 21402-416C (CURA-716 SMT) :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 9, 2005, 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;
(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 petition does not comply with item (1) above. The statement contained in the remarks section of the amendment filed with the petition is unacceptable as an "amendment to the claim for priority" and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet.

In view of the above, an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

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

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Karande et al.	:	
Application No. 10/210,139	:	ON PETITION
Filed: July 31, 2002	:	
Attorney Docket No. 43323B	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: PTOL-85b

Cc: THE DOW CHEMICAL COMPANY
P.O. BOX 1967
MIDLAND, MI 48641-1967

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Vibhor Julka	: DECISION ON REQUEST FOR
Patent Number	: 7623865	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/210,146	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **459** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FEB 27 2007

OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of :
Karl Petter Soderstrom :
Application No. 10/210,148 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. TROM-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/522,051, filed September 15, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on October 13, 2006, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED

JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Kekuda, et al. :
Application No. 10/210,172 : DECISION ACCORDING STATUS
Filed: August 1, 2002 : UNDER 37 CFR 1.47(a)
Docket No. 21402-416A (CURA-716AT) :

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 11, 2003.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on August 1, 2002, without a fully executed oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on September 5, 2002, requiring, *inter alia*, an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two month period for reply.

In response, applicant filed a petition under 37 CFR 1.47(a) on January 31, 2003, made timely by obtaining a three month extension of time. Accompanying the petition was a declaration executed by the following joint inventors: Ramesh Kekuda, Charles Miller, Meera Patturajan, Carol Pena, Daniel Rieger, Richard Shimkets, Bryan Zerhusen, Li Li, Weizhen Ji, Muralidhara Padigaru, Stacie Casman, Edward Voss, Ferenc Boldog, Linda Gorman, Mario Leite, Corine Vernet, David Anderson, Xiaojia Guo, Mei Zhong, Valerie Gerlach, Tord Hjalt, Luca Rastelli, Kimberly Spytek, Sholmit Edinger, Karen Ellerman, Uriel Malyankar, John MacDougall, David Stone, John Alsobrook II, Catherine Burgess, Adam Wolenc, Glennda Smithson, and Jason Baumgartner. However, the signature block for inventor Denise Lepley was left blank.

The 37 CFR 1.47(a) petition was dismissed in a decision mailed on May 16, 2003. Rule 47 applicant failed to establish that a copy of the application papers had been forwarded to Lepley.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition, Rule 47 applicant has included, *inter alia*, a declaration in support of the petition by Nicole Carlucci. Carlucci attested that Lepley was mailed a copy of the application papers on March 12, 2003.

The petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed on January 31, 2003 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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DENISE LEPLEY
UNIVERSITY OF CONNECTICUT HEALTH CENTER
CENTER FOR VASCULAR BIOLOGY
ARB BLDG-E5052
263 FARMINGTON AVE
FARMINGTON CT 06030-3501

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OFFICE OF PETITIONS

In re Application of
Ramesh Kekuda, Charles E. Miller, Meera Patturajan, Carol E. A. Pena, Daniel K. Rieger, Richard A. Shimkets, Bryan D. Zerhusen, Li Li, Weizhen Ji, Muralidhara Padigaru, Stacie J. Casman, Edward Z. Voss, Ferenc L. Boldog, Linda Gorman, Mario W. Leite, Corine A. M. Vernet, David W. Anderson, Xiaojia Sasha Guo, Mei Zhong, Valerie Gerlach, Tord Hjalt, Luca Rastelli, Kimberly A. Spytek, Sholmit R. Edinger, Karen Ellerman, Uriel M. Malyankar, John R. MacDougall, David J. Stone, John P. Alsobrook II, Denise M. Lepley, Catherine E. Burgess, Adam R. Wolenc, Glennda Smithson, and Jason Baumgartner
Application No. 10/210,172
Filed: August 1, 2002
Title: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

LETTER

Dear Ms. Lepley:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Christina V. Karnakis
Mintz, Levin
One Financial Center
Boston, MA 02111
(617)542-6000

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GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/20/2010

Applicant	: David Block	: DECISION ON REQUEST FOR
Patent Number	: 7599847	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/210,182	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1688** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/26/2010

Applicant	: Steve Katinsky	: DECISION ON REQUEST FOR
Patent Number	: 7610394	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/210,203	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/210,213	08/01/2002	Eric James Whitesell	79911	6107

7590 08/13/2004

Eric James Whitesell
3537 Coastview Ct
Carlsbad, CA 92008

EXAMINER	
TAMAI, KARL I	

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of WHITESELL, ERIC JAMES
Appl. No.: 10/210,213
Filed: August 01, 2002
For: HOMOPOLAR GENERATOR

DECISION ON PETITION FOR WITHDRAWAL FROM FINALITY

The purpose of this communication is to inform you of the decision on your petition to withdraw the finality of the office action dated April 1, 2004.

The petition is DENIED. The reasons for this decision appear below.

Applicant's basis for the request is that the examiner introduced 2 (two) new grounds of rejection in the advisory action mailed May 28, 2004 in response to an after final amendment (amendment "E", as labeled by the applicant) filed May 18, 2004. The first ground is alleged to be that the examiner stated the function of the flux return is inherent in the *Sears* reference. The second ground is that the examiner stated there is no additional structure being recited for the claimed flux return. After review and consideration, it is found that these are not new grounds, but rather, are merely rebuttals to applicant's arguments submitted with Amendment "E". Applicant argued that the function of the flux return of the instant invention is not disclosed in the *Sears* reference. The examiner simply pointed out that the function, while not explicitly stated, is inherent. Additionally, the examiner pointed out that the argument about function does not impart any structural limitations on the device over and above those already claimed and rejected over the *Sears* reference. Neither of these responses constitute a new grounds of rejection.

As to applicant's request to have the after final amendment "E" entered, the examiner correctly points out in the aforementioned advisory action that the change in dependency of claims creates new issues. As such, the examiner correctly denied entry of the amendment.

Applicant is reminded that the time for response continues to run from the date of mailing of the final office action on April 1, 2004, extendable by extensions of time in accordance with 37 CFR 1.136.

Darren Schuberg
Supervisory Patent Examiner
Patent Examining Art Unit 2834

Eric James Whitesell
3537 Coastview Ct
Carlsbad, CA 92008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Russell A. Durocher
11595 Koth Drive
Linden MI 48451

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of :
Durocher :
Application No. 10/210,216 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. DFI-10102/04 :
For: CONCRETE FORMING SYSTEM

This is a decision on the petition, filed October 6, 2004, to revive the above-identified application. Petitioner has not specified under which standard of delay he wishes consideration – either under 37 CFR 1.137(a) (the unavoidable standard) or under 37 CFR 1.137(b) (the unintentional standard).

However, since petitioner has provided a detailed explanation as to why his reply to the February 4, 2004 non-final Office action was late, the undersigned has chosen to treat this petition under the unavoidable delay standard of 37 CFR 1.137(a).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed February 4, 2004, which set an extendable three month period for reply. A reply was received on May 7, 2004, which was three days *after* the latest possible date to reply without purchasing an extension of time under 37 CFR 1.136(a). The Office mailed a "Notice Re Informality of Fee" on July 15, 2004 which informed petitioner that a one month extension of time fee was due in order to make the May 7, 2004 reply timely submitted. Petitioner paid $55.00 for a one month extension of time fee on August 9, 2004. A Notice of Abandonment was mailed on September 8, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) – **THE UNAVOIDABLE STANDARD** - must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(l) ($55.00); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable.

Any revival petition under 37 CFR 1.137 must be accompanied by the petition fee. The payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

The phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R.Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770 ("[the fees set forth in this section are due on filing the petition"). Accordingly, the Commissioner is statutorily precluded from further review of the petition until the petition fee is paid in full.

The petition under 37 CFR 1.137(a) is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
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Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Russell A. Durocher
11595 Koth Drive
Linden MI 48451

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Durocher :
Application No. 10/210,216 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. DFI-10102/04 :
For: CONCRETE FORMING SYSTEM

This is a decision on the reconsideration petition, filed December 10, 2004, under 37 CFR 1.137(a) to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed February 4, 2004, which set an extendable three month period for reply. A reply was received on May 7, 2004, which was three days *after* the latest possible date to reply without purchasing an extension of time under 37 CFR 1.136(a). The Office mailed a "Notice Re Informality of Fee" on July 15, 2004 which informed petitioner that a one month extension of time fee was due in order to make the May 7, 2004 reply timely submitted. Petitioner paid $55.00 for a one month extension of time fee on August 9, 2004. The application became abandoned at midnight on May 4, 2004. A Notice of Abandonment was mailed on September 8, 2004.

Petitioner contends that the $55.00 extension of time payment submitted on August 9, 2004 coupled with the May 7, 2004 amendment should result in revival of this abandoned application under the unavoidable standard.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant

outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> 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).

Petitioner's May 7, 2004 reply was received after the May 4, 2004 deadline for timely reply to the February 4, 2004 non-final Office action. With the instant petition, petitioner has submitted a U.S. Postal receipt showing that an unidentified package was mailed by first class mail on May 4, 2004 to zip code 22313, which is the zip code to Alexandria, VA.

Petitioner is reminded that there are only three ways to get Office to recognize a submission date other than the date of receipt: (1) A petitioner could submit his date-stamped return receipt postcard stamped by the USPTO to prove that the amendment was filed on the date stamped on the postcard. MPEP 503 OR (2) Petitioner could provide a copy of the original document with an affixed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) OR (3) Petitioner could 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).

Unfortunately, petitioner mailed his correspondence by first class mail. First class mail does not receive any special treatment. The date it is received at the USPTO is its filing date. Therefore, the May 7, 2004 reply was late.

Petitioner's failure to file the reply at issue in compliance with 37 CFR 1.8 or 1.10 precludes a finding that the delay was unavoidable. 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 shown that adequate provisions were made for the careful handling of Office actions in order to ensure a timely response thereto. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

The Office then mailed a "Notice Re Informality of Fee" on July 15, 2004 which informed petitioner that a one month extension of time fee was due in order to make the May 7, 2004 reply timely submitted. This Notice stated that petitioner had one month or the remainder of the period for reply, whichever is longer to submit a $55.00 one month extension of time.

This Notice was incorrect in two ways. First, petitioner owed a three month extension of time fee ($475.00), not a one month extension of time fee ($55.00). The May 7, 2004 reply did not stop the clock for response. Extensions of time under 37 CFR 1.136 are available only if asked and paid for "prior to or with the response." The period continued to run until the extension of time was purchased. Therefore, on July 15, 2004, when the Notice Re Informality of Fee was mailed, a three month extension of time fee was due.

Second, it is only possible to purchase up to a three month extension of time in responding to a non-final Office action where the reply period is 3 months. This is provided for by statute and cannot be waived. 35 U.S.C. 133. In no case may an applicant respond later than the maximum time period set by statute. In other words, it is not permitted to go beyond six months for reply. So, when petitioner paid $55.00 for a one month extension of time fee on August 9, 2004, he was beyond the maximum extendable 6 month period for reply (August 4, 2004).

Even though the July 15, 2004 Notice was flawed, the Office cannot waive the statute which permits only a 6 month extendable period for reply.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Regarding fees, as of December 8, 2004, the 37 CFR 1.137(a) petition fee became $400.00 because President Bush signed the Consolidated Appropriations Act, which changed many patent fees. Petitioner submitted $55.00 on December 10, 2004. However, since the $55.00 extension of time fee submitted on August 9, 2004 was untimely, it cannot be accepted. The undersigned will apply the August 9, 2004 $55.00 extension of time fee as a petition fee, in order to allow petitioner to pay the pre-December 8, 2004 $55.00 petition fee. The $55.00 fee submitted with the instant reconsideration petition will be refunded by way of a treasury check that will be scheduled shortly.

For future reference, 37 CFR 1.8(a)(1)(i)(B) permits an applicant to transmit certain types of correspondence via facsimile. The reply to the February 4, 2004 non-final Office action could have been transmitted by facsimile to the Office on May 4, 2004. If petitioner had done so, the Office would have considered the reply as timely filed.

ALTERNATE VENUE

Petitioner should file a petition stating that the delay was unintentional. Public Law 97-247, § 3,

96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioners' convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

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www.uspto.gov

Russell A. Durocher
11595 Koth Drive
Linden MI 48451

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Durocher :
Application No. 10/210,216 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. DFI-10102/04 :
For: CONCRETE FORMING SYSTEM

This is a decision on the reconsideration petition, filed March 14, 2005, under 37 CFR 1.137(a) to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed February 4, 2004, which set an extendable three month period for reply. A reply was received on May 7, 2004, which was three days *after* the latest possible date to reply without purchasing an extension of time under 37 CFR 1.136(a). The Office mailed a "Notice Re Informality of Fee" on July 15, 2004 which informed petitioner that a one month extension of time fee was due in order to make the May 7, 2004 reply timely submitted. Petitioner paid $55.00 for a one month extension of time fee on August 9, 2004. The application became abandoned at midnight on May 4, 2004. A Notice of Abandonment was mailed on September 8, 2004.

Petitioner has shown that submission of the May 2004 reply to the February 4, 2004 non-final Office action was unavoidably delayed despite petitioner's diligence in attending to his patent matters.

The petition to revive is **GRANTED**.

Petitioner appears to be an inexperienced applicant. In further prosecution, the services of a registered attorney or agent are strongly recommended, especially in view of the complexities of the patent laws and regulations. The USPTO cannot prosecute this application on behalf of petitioner; e.g., prepare a proper reply for applicant. Likewise, the USPTO cannot recommend the services of a particular attorney or agent to the exclusion of any other. Petitioner may wish to consult his local telephone directory or can obtain a listing of registered practitioners in his area by accessing the USPTO web site at: www.uspto.gov, an the click on "Patents"; an on that page under the caption "Resources", click on "Locate Registered Attorneys and Agents". Petitioner may also obtain general information from the Inventor's Assistance Center at 1-800-786-9199.

Petitioner is urged to include a certificate of mailing on all future correspondence mailed to the USPTO. Enclosed please find an explanation of how to obtain the benefits of certificate of mailing.

After this decision is mailed, the application will be returned to Technology Center 3637 for consideration of the amendment filed on May 7, 2004.

Application No. 10/210,216

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: pro se explanation of certificate of mailing.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LSI CORPORATION
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MS: D-105
MILPITAS, CA 95035

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OFFICE OF PETITIONS

In re Application of :
Matthew Trembley :
Application No. 10/210,228 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 02-0510 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 1, 2007. A Notice of Abandonment was mailed on May 22, 2008. On June 26, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey M. Andersen 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.

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), including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2616 for processing of the RCE in accordance with 37 CFR 1.114.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER B. EIDE
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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SEP 01 2006

OFFICE OF PETITIONS

In re Patent No. 6,721,076 :
Issue Date: April 13, 2004 :
Application No. 10/210,251 : NOTICE
Filed: July 31, 2002 :
Attorney Docket No. 495812002000

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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WOODWARD, EMHARDT, MORIARTY, MCNETT & HENRY, LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Chris Hogan et al.	:	
Application No. 10/210,270	:	DECISION ON PETITION
Filed: July 31, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice mailed on August 12, 2004, which set a period for reply of one (1) month or 30 days or within a three (3) month period set forth in the Notice of Allowability. Accordingly, this application became abandoned on October 2, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 4, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Randall J. Knuth and the appointed attorneys in the Oath were counsel of record at the time of abandonment, an explanation is required as to why this application became abandoned while it was under their control and what efforts were made by the appointed attorneys to further reply of itself and with whom this matter was discussed outside of Mr. Knuth's office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), appointed attorneys and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Mr. Knuth's office, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The

December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Mr. Knuth's office and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Frances Hicks
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
10/210,270	07/31/2002	Chris Hogan	

CONFIRMATION NO. 5293

OC000000025911186

30565
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

Date Mailed: 09/19/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2007.

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.

K Brabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/210,270	07/31/2002	Chris Hogan	LOG-1

CONFIRMATION NO. 5293

OC000000025757091

22855
RANDALL J. KNUTH P.C.
901 PIMLICO DRIVE , SUITE 1A
CENTERVILLE, OH 45459

Date Mailed: 09/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2007.

- 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).

Kimberly Gabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

NEW ATTORNEY/AGENT COPY

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OCT 23 2008

OFFICE OF PETITIONS

WOODWARD, EMHARDT, MORIARTY, MCNETT & HENRY, LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

In re Application of	:	
Chris Hogan et al.	:	
Application No. 10/210,270	:	DECISION ON PETITION
Filed: July 31, 2002	:	
Attorney Docket No. 34177-2	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice mailed on August 12, 2004, which set a period for reply of one (1) month or 30 days or within a three (3) month period set forth in the Notice of Allowability mailed July 1, 2004. Accordingly, this application became abandoned on October 2, 2004.

A petition decision mailed on September 25, 2007 dismissed the petition filed August 24, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3), the facts set forth in the renewed petition do not satisfactorily explain the delay in filing the initial petition pursuant to 37 CFR 1.137(b) to revive the application. Mr. Knuth's statement clearly establishes that the Notice of Abandonment was received and logged into the firms docket system. Mr. Knuth's statement and provided medical statement from Dr. John Fite, clearly indicate Knuth was suffering medical problems at that time. However, Knuth was apparently not a sole practitioner as the declaration filed by applicant on July 31, 2002 gives power of attorney to four attorneys. Why didn't the firm's docketing system indicate to the other attorneys that Knuth was not responding to the Notice of Abandonment? Were the other attorney's aware of this abandonment and Knuth failure to promptly respond to it? If so, why did they fail to do anything about it?

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOODWARD, EMHARDT, MORIARTY, MCNETT & HENRY, LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Chris Hogan et al. :
Application No. 10/210,270 : DECISION ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 34177-2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on July 1, 2004, which set a period for reply of three (3) months. Accordingly, the application became abandoned on October 2, 2004. A Notice of Abandonment was mailed on August 18, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $750, (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

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DIW Aug-08

KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309-3521

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AUG 21 2008

In re Application of :
Timothy H. Addington :
Application Number: 10/210278 : ON PETITION
Filing Date: 08/01/2002 :
Attorney Docket Number: :
07486.105006 :

This is a decision on the petition to withdraw the holding of abandonment filed on July 8, 2008.

This application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on October 22, 2007, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on May 20, 2008. On July 8, 2008, the subject petition was filed.

Petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Non-Compliant Amendment mailed on October 22, 2007. In support of the allegation that the Notice of Non-Compliant Amendment mailed on October 22, 2007 was never received, petitioner has submitted a copy of a mail log docket record and provided a statement by registered patent practitioner Richard W. Miller, stating that a search of the file jacket and mail log records indicates that the Notice of Non-Compliant Amendment mailed on October 22, 2007 was not received.

A review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment mailed on October 22, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Non-Compliant Amendment mailed on October 22, 2007 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Non-Compliant Amendment mailed on October 22, 2007 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> (emphasis added)

Petitioner has provided a copy of the docket record. The docket record supplied appears to be a master docket record and is being construed as such. Petitioner **must** inform the Office if this is an incorrect statement.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to the Technology Center Art Unit 2623 for remailing of the Notice mailed on October 22, 2007. The period for reply will be reset from the mailing date thereof.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1180 PEACHTREE STREET, NE
ATLANTA GA 30309-3521

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Timothy H. Addington	:	DECISION ON PETITION
Application No. 10/210,278	:	TO WITHDRAW
Filed: August 1, 2002	:	FROM RECORD
Attorney Docket No. 07486.105006	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 26, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on August 26, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Specifically, the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (effective date May 12, 2008) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed August 10, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

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BURR & BROWN
PO BOX 7068
SYRACUSE NY 13261-7068

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MAY 30 2003
OFFICE OF PETITIONS

Applicant: Takeuchi et al.
Appl. No.: 10/210,309
Filing Date: August 1, 2002
Title: PIEZOELECTRIC/ELECTROSTRICTIVE DEVICE AND METHOD OF MANUFACTURING SAME
Attorney Docket No.: 789_048 US-DIV
Pub. No.: US 2002/0194717 A1
Pub. Date: December 26, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 17, 2003 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a typographical error in one of the inventor's names and improperly states that the application is a continuation-in-part, when it should state divisional application in the related application data on the front page.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the applicant's name is a minor typographical error, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the continuity claim on the first page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The improper priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the earliest priority date is correctly published. While there is an error in some of the continuity data, anyone looking to determine the effective date of the publication as a reference would have to order the parent application files and would be reviewing PALM.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

After mailing of this decision, the application is being forwarded to Technology Center 3700 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark 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
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AUG 27 2009

OFFICE OF PETITIONS

JENKINS, WILSON, TAYLOR &
HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

In re Application of :
Nicchitta et al. :
Application No. 10/210,333 : ON APPLICATION FOR
Filed: August 1, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 180/115 PCT/US :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705, filed July 20, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least seven hundred sixty-two(762) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office

can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Christopher V. Nicchitta	: DECISION ON REQUEST FOR
Patent Number	: 7598355	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/210,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 09/17/07

Patent No. : 7070714 B2
Inventor : LEE, SUCK-HYUN
Patent Issued : 07/04/06
Docket No. : **312-023.2**

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.

Inspection of the file of the application for the patent reveals that in Column 13, lines 49, 50, 65, and 66 are printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

Thaddius J. Carvis
Ware Fressola Van Der Sluys & Adolphson
755 Main Street
P.O. Box 224
Monroe CT 06468

Cbn/Lmn

Appl. # 10/210338 E/V

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 11/22/05

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction on Patent No.: 6,900,450 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:

SPE: Georgia Y Epps 2878 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,900,450 B2
DATED : May 31, 2005
INVENTOR(S) : Joseph J. Gimenez et al.

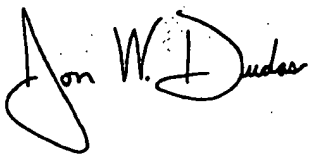
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 41,
Lines 24-25, "position in the" should read -- position at the --.

Column 43,
Line 10, "The method of claim 17 wherein" should read -- The apparatus of claim 17 wherein --.

Signed and Sealed this

Twenty-fifth Day of October, 2005



JON W. DUDAS
Director of the United States Patent and Trademark Office

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WASHINGTON, D.C. 20231
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Paper No. 5

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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APR 0 8 2003

OFFICE OF PETITIONS

In re Application of
Ellison et al.
Application No. 10/210,341
Filed: July 31, 2002
Attorney Docket No. 42390P14170

ON PETITION

This decision concerns the March 10, 2003 petition under 37 CFR 1.10, requesting that the above-referenced application be accorded a filing date of July 31, 2002 rather than the presently accorded filing date of July 30, 2002.

The petition is **GRANTED**.

Petitioners request a filing date of July 31, 2002, on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[1] The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EL 802885624US." The same number also appears on the application transmittal which itemizes the application papers being mailed on that date.[2] The petition is thus granted.

No petition fee is owed. The $130 payment enclosed with the petition has been credited to Deposit Account No. 02-2666 as authorized.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 31, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

[2] MPEP section 513 (Aug. 2001) (When a correspondence mailed by USPS "Express Mail" service includes several papers directed to the same application, it may be submitted with a transmittal which itemizes the papers. Merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal is sufficient.).

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL - 1 2004 td

Mailed :
In re Application of
Benoit Ambrose
Serial No. 10/210,346
Filed: July 31, 2002
For: MATTE SURFACE FILM

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed July 7, 2003 and made final in the office action mailed November 10, 2003.

On July 7, 2003, a two way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims were related as a product and a method of making that product. Applicants traversed the restriction requirement in a response filed October 7, 2003. The examiner repeated the restriction requirement in an office action mailed November 10, 2003 and made the restriction requirement final. Applicants continued to argue the restriction requirement in a response filed January 12, 2004. The examiner prepared an advisory action that was mailed on February 20, 2004. Applicants filed a request for continued examination on March 22, 2004. On June 3, 2004 a new non-final office action was mailed withdrawing the non-elected claim from consideration.

On March 22, 2004, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that an additional search of the non-elected claims would not be unduly burdensome.

DECISION

Section 803 of the MPEP states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In making the restriction final, the examiner states that a search of the non-elected claims would require searches that are not required for the claims of Group I. Additionally, in the original requirement, the examiner has pointed out that each group is classified in different class and subclasses. The position of the examiner is reasonable. While a search of the two groups of claims would be overlapping, additional searching would be required for the non-elected group. Such a search would be a serious burden on the examiner in that the examiner would have to search prior art methods that would not have anything to do with the making of the instantly claimed product.

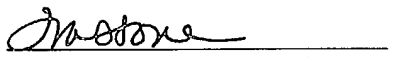
Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

Applicants have additionally requested that upon indication that the product claims are allowed, the non-elected claims be rejoined under MPEP 821.04.

Section 821.04 of the MPEP states:

821.04 Rejoinder
Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. See MPEP § 806.05(f) and § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP § 809.02(c) and § 821 through § 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

The examiner is instructed to take appropriate action consistent with this section upon the allowance of the elected product claims.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

EXXONMOBIL CHEMICAL COMPANY
P O BOX 2149
BAYTOWN TX 77522-2149

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

IBM Corporation (RHF)
C/O Robert Frantz
P.O. Box 23324
Oklahoma City, OK 73123

MAILED

APR 27 2007

Technology Center 2100

In re Application of)
Debbie Ann Godwin)
Application No. 10/210,355) PETITION TO WITHDRAW
Filed: July 31, 2002) THE FINALITY OF
For: Mixed Address Database Tool) LAST OFFICE ACTION
UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed October 23, 2006, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed August 21, 2006.

A first Office action was issued March 3, 2006 rejecting claims 1-15, 17 and 18 as being unpatentable under 35 USC ∋ 103 over Swentor in view of Sciacca. A response to the first Office action was timely filed and received in the Patent and Trademark Office (Office) on June 2, 2006. New limitations were added to claim 1-4, 6-7and 9-11. A second Office action was issued August 21, 2006 rejecting claims 1- 18, as being unpatentable under 35 USC ∋ 103 over Weber in view of Swentor in view of Sciacca further in view of Yavatkar et al. This is a new ground of rejection. The examiner held that the amendment of August 21, 2006 necessitated the new ground of rejection and made the second Office action final.

October 23, 2006, petitioner filed a request under MPEP 706.07(a) to withdraw finality of the last Office action. Petitioner seeks relief by filing a petition under 37 CFR 1.181 requesting that the finality of the final Office action August 21, 2006 be withdrawn.

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.

Petitioner contends that it would be improper for a rejection based upon newly cited art (Yavatkar) to be made final unless the new grounds of rejection were necessitated by an applicant's amendment adding each account and a wherein clause so the question is whether or not this amendment necessitated a new search, and thereby justifies closing prosecution of the application and denying applicants the opportunity to respond. The newly added features are fully supported in the specification and because the first search is required to cover not only the scope of the claims as filed but the invention as described the initial search should have covered the claims even as amended. Therefore, any additional search, which was performed following applicant's amendment, was not necessitated by the amendment itself. As such, in view of the new ground of rejection having been made in the August 21, 2006 office action, it is premature to make that action final.

A review of MPEP 706.07(a) clearly shows that a second action on the merits shall be made final, except for where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant. This section of the MPEP does not mention let alone require that an amendment must necessitate a new search to justify closing prosecution. A review of the file record indicates that a new ground of rejection in the Office action of August 21, 2006 was necessitated by the new limitations. Thus, it is proper under current Office practice to make the second Office action final as provided for under MPEP ∋ 706.07(a).

For the above stated reasons, the petition to withdraw the finality of the final Office action of August 21, 2006 is **Dismissed**.

The application continues to await consideration of the January 19, 2007 appeal brief.

James Dwyer, Director
Technology Center 2100

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 30, 2006

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction on Patent No.: 6,938,197

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:

Applicant suggested correction appears to change the scope of the claims. The claims as filed is directed to the phrase "said any incomplete Segment". I.e., Claim 4 now 3; Claim 5 now 4; Claim 12 now 10; claim 14 now 12; Claim 19 now 16; Claim 20 now 17 & Claim 21 now 18 originally recites the phrase in error. Claims 6; Now Claim 4 and now Claim 8 was amended on 2-15-05 to recite the limitation that applicant states is an error.

ALBERT DECADY
SPE PRIMARY PATENT EXAMINER

2133
Art Unit

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Thomas E. Mallouk, et al. :
Application No. 10/210,371 : DECISION ON PETITION
Filed: August 1, 2002 : TO WITHDRAW
Attorney Docket No. PARS-0002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 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 John W. Caldwell on behalf of all attorneys of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 23377 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 are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS E. MALLOUK
515 WEST PROSPECT AVENUE
STATE COLLEGE, PA 16801

cc: HARSH S. GILL, PH.D
PARS ENVIROMENTAL, INC.
6 SOUTH GOLD DRIVE
SUITE A
ROBBINSVILLE, NJ 08691

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/210,371	08/01/2002	Thomas E. Mallouk	PARS-0002

CONFIRMATION NO. 8649

POWER OF ATTORNEY NOTICE

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000030630036

Date Mailed: 06/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2007.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DRIVE
E-118G – INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST, CA 92630

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Application of :
George J. Bennett, et al. :
Application No. 10/210,396 :
Filed: July 31, 2002 :
Attorney Docket No. K35A0701 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of
Aya Jakobovits et al
Application No. 10/210,425
Filed: July 31, 2002
Attorney Docket No. ABJT-001CON2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 31, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided. Additionally, the record must indicate that applicant has been notified of the request for withdrawal.

A review of the file record discloses that an oath (from a prior application) was filed which did not appoint the attorneys associated with Customer Number 24353. However, the Application Data Sheet submitted with the application directs that correspondence regarding this application be directed to the aforementioned Customer Number. Therefore, while the attorneys associated with Customer Number 24353 were never appointed by either the applicant or the assignee, these attorneys are considered to have been employed or other otherwise engaged in the proceedings in this patent application.

The request to withdraw as attorneys filed on March 31, 2006 fails to set forth the reason(s) for the requested withdrawal as required by 37 C.F.R. § 10.40. While the request to withdraw filed on March 31, 2006 indicates that a prior request was filed on March 16, 2006, this prior request is not of record in the image file for this application. Therefore, the request cannot be granted under 37 CFR 1.36(b) until petitioner has complied with the provisions of 37 C.F.R.§ 10.40.

Although not currently viewable in the image file for this application, it is noted that a "Notice Regarding Change of Power of Attorney," which revoked the power of attorney to the attorneys associated with Customer Number 24353, and a "Notice of Acceptance of Power of Attorney,"

accepting the power of attorney to the attorneys associated with Customer Number 24353, was mailed on April 24, 2006. However, the mailing of these communications was improper since (1) no revocation or appointment of a power of attorney had been filed, and (2) the communications both revoked and accepted the power of attorney associated with the same Customer Number. Accordingly, the communications mailed on April 24, 2006 are hereby vacated.

All future communications from the Office will continue to be directed to the above-noted address until otherwise properly notified by the applicant and/or the assignee(s). There is no indication that assignee has intervened in the prosecution of this application. Therefore, a copy of this communication is being mailed to both the first named applicant and the assignees found in the assignment records of the U.S. Patent and Trademark Office. If applicant desires to be represented by counsel, the proper power of attorney documentation must be submitted. If the power of attorney is submitted by an assignee, compliance with 37 CFR 3.73(b) must be satisfied.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Aya Jakovovits (first-named applicant)
2021 Monterey Avenue
Menlo Park, CA 94025

Abgenix, Inc. (assignee)
6701 Kaiser Drive, M/S 24
Fremont, CA 94555

Japan Tobacco Inc. (assignee)
2-1, Toranomon 2-Chome,
Minato-ku
Tokyo, Japan 105

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SUITE 200
EAST PALO ALTO, CA 94303

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of
Aya Jakobovits et al
Application No. 10/210,425
Filed: July 31, 2002
Attorney Docket No. ABJT-001CON2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 31, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided. Additionally, the record must indicate that applicant has been notified of the request for withdrawal.

A review of the file record discloses that an oath (from a prior application) was filed which did not appoint the attorneys associated with Customer Number 24353. However, the Application Data Sheet submitted with the application directs that correspondence regarding this application be directed to the aforementioned Customer Number. Therefore, while the attorneys associated with Customer Number 24353 were never appointed by either the applicant or the assignee, these attorneys are considered to have been employed or other otherwise engaged in the proceedings in this patent application.

The request to withdraw as attorneys filed on March 31, 2006 fails to set forth the reason(s) for the requested withdrawal as required by 37 C.F.R. § 10.40. While the request to withdraw filed on March 31, 2006 indicates that a prior request was filed on March 16, 2006, this prior request is not of record in the image file for this application. Therefore, the request cannot be granted under 37 CFR 1.36(b) until petitioner has complied with the provisions of 37 C.F.R.§ 10.40.

Although not currently viewable in the image file for this application, it is noted that a "Notice Regarding Change of Power of Attorney," which revoked the power of attorney to the attorneys associated with Customer Number 24353, and a "Notice of Acceptance of Power of Attorney,"

accepting the power of attorney to the attorneys associated with Customer Number 24353, was mailed on April 24, 2006. However, the mailing of these communications was improper since (1) no revocation or appointment of a power of attorney had been filed, and (2) the communications both revoked and accepted the power of attorney associated with the same Customer Number. Accordingly, the communications mailed on April 24, 2006 are hereby vacated.

All future communications from the Office will continue to be directed to the above-noted address until otherwise properly notified by the applicant and/or the assignee(s). There is no indication that assignee has intervened in the prosecution of this application. Therefore, a copy of this communication is being mailed to both the first named applicant and the assignees found in the assignment records of the U.S. Patent and Trademark Office. If applicant desires to be represented by counsel, the proper power of attorney documentation must be submitted. If the power of attorney is submitted by an assignee, compliance with 37 CFR 3.73(b) must be satisfied.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Aya Jakovovits (first-named applicant)
2021 Monterey Avenue
Menlo Park, CA 94025

Abgenix, Inc. (assignee)
6701 Kaiser Drive, M/S 24
Fremont, CA 94555

Japan Tobacco Inc. (assignee)
2-1, Toranomon 2-Chome,
Minato-ku
Tokyo, Japan 105

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67 STERLING RD
WESTWOOD, MA 02090

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Carolyn Rasky :
Application No. 10/210,453 :
Filed: August 1, 2002 :
Attorney Docket No. DCB-1000 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 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 June 30, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted on May 16, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DUANE C. BLAKE
67 STERLING ROAD
WESTWOOD, MA 02090

In re Application of :
Carolyn Rasky :
Application No. 10/210,453 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. DCB-1000 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed August 1, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 2, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,775,952 :
Issue Date: August 17, 2004 :
Application No. 10/210,464 :
Filed: July 31, 2002 :
Attorney Docket No. 10770.00013 :

This is a decision on the communication, filed July 10, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to delete 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 referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction to delete the assignee's name from the front page of the Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

10/210464

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/3/06 **Paper No.:** _____

TO SPE OF : ART UNIT 2700-PCT (3516NBB)

SUBJECT : Request for Certificate of Correction on Patent No.: 6775952

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

Frances Hicks — SPE
2700 — Art Unit

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/210,474	08/01/2002	Carlo Bombarda	1/1232	8016

28501 7590 10/26/2006

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD, CT 06877-0368

EXAMINER	
NWAONICHA, CHUKWUMA O	
ART UNIT	**PAPER NUMBER**
1621	

DATE MAILED: 10/26/2006

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
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	20061019

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Receipt is acknowledged of the petition request to correct inventorship, filed October 12, 2006. The petition has been granted.

UNITED STATES
PATENT AND
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paula K. Wittmayer
Boehringer Ingelhiem Corp.
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT. 06877

Date: October 19, 2006
Application No. 10/210,474
Filed: August 1, 2002
Subject: **STABLE POLYMORPH OF FLIBANSERIN**

ON PETITION
37 CFR 1.48

Receipt is acknowledged of the petition filed October 12, 2006, under 37 CFR 1.48(a), for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, October 12, 2006, the Inventorship of this non-provisional, application has been changed by the **addition of HEINRICH SCHNEIDER**. 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
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1621
Remsen 5D11
571-272-0602

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767-1400

COPY MAILED

JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Eyman et al.
Application No. 10/210,486
Filed: August 1, 2002
Attorney Docket No. 5500-59203

DECISION GRANTING PETITION

This is a decision on the petition filed November 13, 2002, to establish that Figures 6 and 7 were part of the originally filed application.

On August 1, 2002, the application was filed.

On September 3, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of August 1, 2002, and advising applicants that Figures 6 and 7 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 6 and 7 were deposited on August 1, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "5 sheet(s) Formal Drawings (Figures 1-8)" on August 1, 2002.[1] Petitioner has also submitted a copy of the missing documentation- sheet 4 of the drawings which contains Figures 6 and 7.

Upon review of the record, Figures 6 and 7 deposited on August 1, 2002, have not been located. However, the evidence is convincing that the application papers deposited on August 1, 2002, included Figures 6 and 7, and that the figures were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of the Figures submitted with the petition will be used for examination purposes.

The petition fee will be credited to petitioner's deposit account.

The Notice mailed September 3, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 1, 2002, using the application papers filed on August 1, 2002, and the copy of Figures 6 and 7 filed on November 13, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DONALD R. SCHOONOVER
4211 ROLLING HILLS DRIVE
NIXA, MO 65714-8771

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Ivan Osorio, et al. :
Application No. 10/210,497 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. 99OS1001-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 9, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 10, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,630,757 B2
Serial No. : 10/210,497
Inventor(s) : Osorio et al.
Issued : December 8, 2009
Title : **SYSTEM FOR THE PREDICTION, RAPID DETECTION, WARNING, PREVENTION, OR CONTROL OF CHANGES IN ACTIVITY STATES IN THE BRAIN OF A SUBJECT**
Docket No. : **018158-011620US**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will issue to correct the remaining errors noted in your request.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

DONALD R. SCHOONOVER
4211 ROLLING HILLS DRIVE
NIXA MO 65714-8771

ecw

UNITED STATES 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

DANIEL E. VAUGHAN
PARK VAUGHAN & FLEMING LLP
702 MARSHALL STREET, SUITE 310
REDWOOD CITY, CA 94063

COPY MAILED

SEP 17 2003

OFFICE OF PETITIONS

In re Application of :
Francesco DiMambro :
Application No. 10/210,510 : NOTICE
Filed: July 31, 2002 :
Attorney Docket No. SUN-P7961

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 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
John S. Renner :
Application No. 10/210,512 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 07844-543001

This is a decision on the petition, filed October 20, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 19, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: John S. Renner	: DECISION ON REQUEST FOR
Patent Number	: 7639257	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/210,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **659** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 080604

AUG 3 1 2004

HOWREY SIMON ARNOLD & WHITE, LLP
750 BERING DRIVE
HOUSTON, TX 77057-2198

In re Application of:
GRIER *et al.*
Serial No.: 10/210,519
Filed: August 01, 2002
Attorney Docket No.: **12962.0006.NPUS00**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 19, 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 Christopher J. Buntel, 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 Dickinson Wright PLLC, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: DICKINSON WRIGHT PPLC
1901 L STREET, NW, SUITE 800
WASHINGTON, DC 20036-3506

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted to accept color drawings.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Bruce Campell

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT 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

MICHAEL A. NELSON
TEKTRONIX, INC.
14150 SW KARL BRAUN DRIVE
P.O. BOX 500, M/S 50-LAW
BEAVERTON, OR 97077

COPY MAILED

MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Xiaofen Chen :
Application No. 10/210,552 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 7307 US :

This is a decision on the petition filed November 5, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed May 15, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 16, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: January 24, 2005

In re application of	:	
LEU et al	:	DECISION ON
Serial No. 10/210,611	:	PETITION
Filed: December 17, 2001	:	
For: HIGHLY BLEED –ALLEVIATING INK COMPOSITION		

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS 37 C.F.R. ə 1.84(a)(2) or (b)(2), filed July 11, 2001. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Stan Silverman
Supervisory Patent Examiner
Technology Center 1700

Richard P. Berg, Esq.
C/o LADAS & Parry
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 936-5679
853 ARROWHEAD TRAIL
HENDERSON NV 89015

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JASON R. BOND
MEDLEN & CARROLL, LLP
SUITE 350
101 HOWARD STREET
SAN FRANCISCO, CA 94105

COPY MAILED

JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Marilyn C. Olson-Munoz et al :
Application No. 10/210,682 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. FORS-07289 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 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 Restriction Requirement mailed July 26, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned at midnight on August 26, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed March 24, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being referred to Technology Center 1600, Art Unit 1634 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Matthew L. Koele et al :
Application No. 10/210,685 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. KCC 4882.1(K-C 17,926) :

This is a decision on the petition, filed January 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 December 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2877 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE G. Epps

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/210,708

Paper No.: _____

DATE : 6/24/05

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6843563

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The correction to Col. 7, line 27 is incorrect. It should read: Col 7, line 27 replace "an" with --on--

This correction is shown in claim 8 filed July 31, 2002.

Georgia Y. Epps — SPE

2873 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

COPY MAILED

NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of :
David C. Rhoads :
Application No. 10/210,720 : DECISION ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. 01925- P0143A :

This is a decision on the "Petition to Accord Filing Date to Items Alleged Missing under 37 C.F.R. 1.182," filed September 30, 2002. Petitioner requests that the Office accord a filing date of August 1, 2002 to the Abstract.

Application papers in the above-identified application were filed on August 1, 2002. However, on September 9, 2002, the Office of Initial Patent Examination mailed applicant a "Notice to File Corrected Application Papers." Applicant was notified that the application papers had been accorded a filing date; however, an abstract of the technical disclosure of the application was required, pursuant to 37 CFR 1.72(b). A two-month period to supply the required item was set.

In response, applicant timely filed the instant petition (and petition fee), along with a copy of the abstract as petitioner maintains it was originally filed on August 1, 2002. In support of the petition, applicant submits a copy of their return postcard from the USPTO.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on August 1, 2002, and the papers submitted therewith were assigned application No. 10/210,720; 2) it specifically identifies the items being filed, including "1 page of abstract" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the abstract, were filed on August 1, 2002.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-4516, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of August 1, 2002, using the application papers received in the Office and presently accorded that date; and the technical abstract resubmitted on petition filed September 30, 2002;

- indication in Office records that the abstract was present in the application on filing; and
- processing of the abstract (Paper No. 4) filed in response to the "Notice to File Corrected Application Papers," in accordance with this decision, acknowledging that petitioner has shown that the abstract was timely filed August 1, 2002, but misplaced in the Office.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

for N Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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APR 25 2005

St. Onge Steward Johnston and Reens, LLC
986 Bedford St.
Stamford, CT 06905-5619

In re Application of :
David C. Rhoads :
Application No. 10/210,720 :
Filed: August 1, 2002 :
For: ACTUATOR AND SLACK ADJUSTER

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 24, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed January 25, 2005 because of applicants' failure to reply to the final Office action of May 3, 2004.

Petitioner states that a Request for Continued Examination (RCE) was filed on July 2, 2004. The copy of the response submitted with the petition includes a Certificate of Mailing dated July 2, 2004, and signed by Tamara Millikan.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate.

The petition includes a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing, of the original response filed on July 2, 2004. This statement is signed by Todd Oberdick. This is not a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance, Tamara Millikan.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/dgd3/31/05

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

OCT - 3 2005

Todd M. Oberdick
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619

In re Application of	:	**DECISION ON**
David C. Rhoads	:	**RENEWED PETITION**
Application No. 10/210,720	:	**TO WITHDRAW THE**
Filed: August 1, 2002	:	**HOLDING OF ABANDONMENT**

For: ACTUATOR AND SLACK ADJUSTER

This is a decision on the renewed Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office on May 10, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on July 2, 2004, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ 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.

SNM/js: 9/20/05

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
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LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK CA 94560

COPY MAILED

MAY 09 2008

In re Application of	:	
Belson, Amir	:	
Application No. 10/210,736	:	DECISION ON PETITION
Filed: July 31, 2002	:	
Attorney Docket No. BEL 1057U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment previously received on February 19, 2008, (2) the petition fee, and (3) a proper statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3767 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JAMES J. LEARY
6419 ELLENWOOD AVENUE
ST. LOUIS, MO 63105

#6

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
10/210,737	07/31/2002	Gregory Murphy	28122.111

CONFIRMATION NO.
7072

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

JUL 23 2003

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on March 18, 2003.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The Application was published on March 13, 2003, in compliance with 35 U.S.C. 122(b), the publication number is US20030050659A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has been published** as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4282.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 05 2009

OFFICE OF PETITIONS

STEVENS LAW GROUP
P.O. BOX 1667
SAN JOSE, CA 95109

In re Patent No. 7,164,860 :
Issue Date: January 16, 2007 :
Application No. 10/210,750 : NOTICE
Filed: July 31, 2002 :
Attorney Docket No. RAZA-03001

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

THOMAS A. O'ROURKE
WYATT, GERBER, MELLER & O'ROURKE
99 PARK AVENUE
NEW YORK, NY 10016

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of :
Diane C. Breidenbach, et al. :
Application No. 10/210,779 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 23, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 24, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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 A O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

:

Breidenbach, et al.

:

Application No. 10/210,779

: DECISION ON PETITION

Filed: August 1, 2002

:

Attorney Docket No.

This is a decision on the petition under 37 CFR §1.137(b), January 11, 2007, and in supplement on January 16, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 9, 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 September 10, 2006. A Notice of Abandonment was mailed on October 12, 2006.

The issue fee was received on January 11, 2007.

Form PTOL-85B, filed January 11, 2007, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ERIC B. MEYERTONS
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

COPY MAILED

JUL 16 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sidlgata V. Sreenivasan et al :
Application No. 10/210,780 :
Filed: August 1, 2002 :
Attorney Docket No. P39-13-02 :

This is a decision on the petition, filed June 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on June 30, 2004, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kenneth C. Brooks appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Brooks desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Brooks, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center Art Unit 1756 will consider the request for continued examination under 37 CFR 1.114 filed June 30, 2004.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
LEGAL DEPARTMENT
MOLECULAR IMPRINTS, INC.
P.O. BOX 81536
AUSTIN, TX 78708-0104

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MOLECULAR IMPRINTS, INC.
KENNETH C. BROOKS
PO BOX 81536
AUSTIN, TX 78708-1536

COPY MAILED

JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Sreenivasan et al. :
Application No. 10/210,780 :
Filed: August 1, 2002 :
Attorney Docket No. P39-13-02 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed August 2, 2005. Patentees request that the Patent Term Adjustment on the issued patent be corrected from one hundred forty-one (141) days to one hundred fifty-one (151) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED to the extent indicated herein**.

Patentees are given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

For the reasons stated herein, 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 seventy-three (73) days.

On July 12, 2005, the above-identified application matured into U.S. Patent No. 6,916,584. The instant request for reconsideration filed August 2, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a Patent Term Adjustment of 141 days. Patentees assert that a period of adjustment of 116 days, pursuant to 37 CFR 1.703(a)(6) should be entered for the Office

taking in excess of four months to issue the patent after payment of the issue fee and satisfaction of all outstanding requirements. Patentees also disclose that a period of reduction of 106 days, pursuant to 37 CFR 1.704(c)(10), should be entered for applicants filing Information Disclosure Statements (IDS) after the mailing of the Notice of Allowance.

Patentees are correct that a period of adjustment should be entered for Office delay in issuing the patent. However, the period of adjustment is 137 days, counting the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, February 26, 2005 and ending on the date a patent was issued, July 12, 2005.

Patentees are correct that a period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). However, there are three periods of reduction, not just a single period of reduction of 106 days. A corrected Notice of Allowance was mailed on September 15, 2004. As acknowledged by patentees, thereafter on October 7, 2004, on October 18, 2004, and on November 15, 2004, applicants filed IDSs. In response to the additional IDSs, a corrected Notice of Allowance was mailed on March 1, 2005. As such, entries of the following non-overlapping periods of reduction should have been entered:

- 12 days for the period beginning on October 7, 2004 to October 18, 2004 (overlapping period October 19, 2004 to March 1, 2005);
- 28 days for the period beginning on October 19, 2004 to November 15, 2004 (overlapping period November 16, 2004 to March 1, 2005); and
- 106 days for the period beginning on November 16, 2004 and ending on March 1, 2005.

Moreover, a review of the record reveals a further basis for entry of periods of reduction. The first Notice of Allowance was mailed on March 10, 2004. However, the Issue Fee payment was not received until June 14, 2004. Accordingly, pursuant to 37 CFR 1.704(b), a period of reduction of 4 days should have been entered for applicants taking 3 months and 4 days to pay the Issue Fee. It is noted that as provided in 37 CFR 1.703(f), "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this

calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

Furthermore, a period of reduction of 37 days not 20 days should have been entered for the filing of a Request for Continued Examination (RCE) and IDS on June 30, 2004. Prior to filing the RCE, applicant paid the Issue Fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b) for applicant delay. The filing of the RCE and IDS after the mailing of the Notice of Allowance on March 10, 2004 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 37 days, counting the number of days in the period beginning on June 30, 2004 and ending on August 5, 2004, the date of mailing of the corrected Notice of Allowance.

Likewise, prior to filing the RCE but after the mailing of the notice of allowance on May 24, 2006, applicants filed an amendment and drawings. The filing of these papers also constitute a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 38 days, counting the number of days in the period beginning on May 24, 2004 and ending on June 30, 2004, the date of filing of the RCE. The period from the date of filing of the RCE to the date of the mailing of the corrected Notice of Allowance, overlaps with the period of reduction already entered for the RCE. Accordingly, these overlapping days will not again be counted for this failure.

In view thereof, the patent term adjustment indicated in the patent should be one hundred eleven (73) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. The fees in 1.18(e) and (f) are set to recover the estimated average cost to the Office for processing and evaluating an application for patent term adjustment under

1.705, and for processing and evaluating a request under 35 U.S.C. 154(b)(3)(C) for reinstatement of the term reduced under 35 U.S.C. 154(b)(2)(C), respectively. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seventy-three (73) days.

Telephone inquiries specific to this matter should be directed to Douglas Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,916,584 B2

DATED : July 12, 2005

INVENTOR(S) : Sreenivasan 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 (141) days

Delete the phrase "by 141" and insert – by 73 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-19-2005

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,867,219

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

PTO/SB/83 (09-04)
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	10/210,792
Filing Date	07/31/2002
First Named Inventor	Hoch
Art Unit	1648
Examiner Name	H. Park
Attorney Docket Number	037002-0402

MCS 9/22/05 APPROVED

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 30542

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: Files being transferred at client's request.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Daniel M. Chambers BioTechnology Law Group				
Address	658 Marsolan Avenue				
City	Solana Beach	State	CA	Zip	92075-1931
Country	US				
Telephone	858-350-9690			Fax	858-350-9691

Signature	Barry Wilson		
Name	Barry S. Wilson	Registration No.	39,431
Date	May 12, 2005	Telephone No.	858-847-6700

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 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES 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.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT
(K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED
SEP 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Josien et al.	:	
Application No. 10/210,803	:	LETTER REGARDING
Filed: August 1, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. CN01463K	:	

This letter is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(b)" filed June 2, 2005. Pursuant to applicants' duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment mailed with the Notice of Allowance should be two hundred forty-two (242) days not two hundred sixty-two (262) days. This request was recently forwarded to the undersigned for consideration.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On May 6, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 262 days. Applicants state that this determination is incorrect because the period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(1) and 1.703(a)(1) is 176 days, not 196 days. Applicants' calculation is based on using the date of March 25, 2004, the date applicants state the examiner contacted applicants' representative with an oral restriction request, as the date of the Office's first notification under 35 U.S.C. 132.

The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. The Office first mailed a notification under 35 U.S.C. 132 on April 14, 2004. In this instance, the Office properly calculated the patent term adjustment using the April 14, 2004 date.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance of two hundred sixty-two (262) days is correct.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The 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 application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

DATE 10/1/07 APPLICATION NUMBER 10/210,803

DOC CODE Ref.Dec.COCIN DOC DATE 10/1/07

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
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Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT
(K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED

OCT 0 1 2007

OFFICE OF PETITIONS

In re Patent No. 7,122,675	:	DECISION ON REQUEST
Josien et al.	:	FOR RECONSIDERATION OF
Issue Date: October 17, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/210,803	:	and
Filed: August 1, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. CN01463K	:	CERTIFICATE OF CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed December 15, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from four hundred fifty-nine (459) days to five hundred seventy-nine (579) days, in that, they request that a reduction of 120 days be removed.

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 seventy-nine (579) days.

On October 17, 2006, the above-identified application matured into U.S. Patent No. 7,122,675. The instant request for reconsideration filed December 15, 2006 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 459 days. Patentee disputes the reduction of 120 days due to "an Amendment

after Notice of Allowance" as no 312 amendment or other paper warranting reduction of the patent term was filed after the mailing of the notice of allowance.

A review of the PALM calculations for this application reveals that a period of reduction of 120 days was entered for patentees' submission of a 312 amendment on June 2, 2006, which was after the mailing of the notice of allowance. See 37 C.F.R. § 1.704(c)(10). However, a review of the application record supports a conclusion that no paper (or any other paper, aside from an application for patent term adjustment with exhibit filed June 2, 2005 and payment of the issue fee) was filed in this application after the mailing of the notice of allowance.

It is noted that pursuant to § 1.704(e) no period of reduction is entered for the filing of an application for patent term adjustment.

Accordingly, the reduction of 120 days is being removed.

In view thereof, the patent term adjustment indicated in the patent should have been five hundred seventy-nine (579) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FIVE HUNDRED SEVENTY-NINE (579)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,122,675 B2

DATED : October 17, 2006

INVENTOR(S) : Josien 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 (459) days

Delete the phrase "by 459" and insert – by 579 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#6

Paper No. 5

BEUSSE, BROWNLEE, BOWDOIN & WOLTER, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Roddy, et al. :
Application No. 10/210,815 :
Filed: July 31, 2002 :
Attorney Docket No. 121888/624226-349 :

DECISION GRANTING PETITION

This is a decision on the petition filed November 13, 2002,, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of July 31, 2002, rather than the presently accorded filing date of August 2, 2002.

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail service on July 31, 2002. In support, the petition is accompanied by a copy of the shipping history for the application which was contained in the Express Mail package with a tracking number of EO000191 530U S. The original application papers found in the application file also reflect the Express Mail Tracking number EO000191 530U S. The shipment history shows that the application was en route on July 31, 2002.

In view of the above, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 31, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Kelsey L. Milman
Caterpillar Inc.
Intellectual Property Department
AB6490
100 N.E. Adams Street
Peoria IL 61629-6490

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SEP 10 2002

OFFICE OF PETITIONS

In re Application of :
Finley et al. : DECISION GRANTING
Application No. 10/210,821 : PETITION
Filed: August 1, 2002 :
Attorney Docket No. 01-547 :

This is a decision on the petition under 37 CFR 1.10, filed August 26, 2002, requesting that the above-identified application be accorded a filing date of August 1, 2002, rather than the presently accorded filing date of August 2, 2002.

Petitioner alleges that the application was deposited in Express Mail service on August 1, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt, indicating that a package bearing Express Mail label No. EV018464565US was accepted in Express Mail service on August 1, 2002, in Peoria, IL at 5:07 PM. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 03-1129.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to August 1, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCOTT P. ZIMMERMAN, PLLC
PO BOX 3822
CARY, NC 27519

COPY MAILED

MAR 04 2008

In re Application of
James C. Bedingfield, Sr.
Application No. 10/210,830
Filed: August 1, 2002
Attorney Docket No. BS02146

ON PETITION

This is a decision in response to the petition, filed October 22, 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 December 5, 2006. A Notice of Abandonment was mailed on October 5, 2007. In response, on October 22, 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 $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2614 for consideration of the amendment filed October 22, 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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

MAIL

MAR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
James Milton Lovin, et al.
Application No. 10/210,856
Filed: July 31, 2002
For: WIRELESS DIGITAL AUDIO TO AM/FM DECODER AND MODULATOR

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 November 10, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 21005 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: William R. Lovin
c/o 1149 Houston Street
Melbourne, FL 32935

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHALKER FLORES LLP
SUITE 1036
2711 LBJ FREEWAY
DALLAS, TX 75234

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of :
Rowen J.Y. Chang :
Application No. 10/210,862 : DECISION ON PETITION
Filed: August 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. UTHH:1003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2006, 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 7, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of October 7, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on April 17, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU1653 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the submission under 37 CFR 1.114.

Frances Hicks
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

Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Mail Date: 04/21/2010

Applicant	: Rowen J.Y. Chang	: DECISION ON REQUEST FOR
Patent Number	: 7601683	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/210,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314-2848

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MAY 22 2003

OFFICE OF PETITIONS

In re Application of :
Harvey M. Novak, et al. :
Application No. 10/210,871 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 4498-003 :

This is in response to the petition under 37 CFR 1.47(a), filed March 11, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

Although it appears that Mr. Paul Baity refuses to sign the application, it is unclear whether he received a copy of the application papers. MPEP 409.03(d) in pertinent part states:

> "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings and oath or declaration) to the non-signing inventor for

> signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or if the non-signing inventor is represented by counsel, to the address of record of the non-signing inventor's attorney."

Petitioner must supply a copy of the application papers to Mr. Baity as required. Upon the filing of a Request for Reconsideration, petitioner must demonstrate that a *bona fide* attempt was made to present the application papers (specification, including claims, drawings and oath or declaration) to the non-signing inventor. If there is an express written refusal to sign the declaration, a copy of the document evidencing a refusal should be submitted to the USPTO. If the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration and any documentary evidence to support facts alleged in the affidavit or declaration should be submitted with the reconsideration request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn: Office of Petitions

By hand: 2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paul R. Baity
415 Long Hollow Lane
P. O. Box 633
Great Cacapon, WV 25422

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NOV 1 9 2003
OFFICE OF PETITIONS

In re Application of
Harvey M. Novak; Chad Sample; and Paul R. Baity
Application No. 10/210,871
Filed: August 2, 2002
For: FLASHING INFRARED BEACON SYSTEM

Dear Mr. Paul Baity:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road
Suite 310
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

Lowe, Hauptman, Gilman and Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314-2848

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Harvey M. Novak, et al. :
Application No. 10/210,871 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 4498-003 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed November 7, 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.

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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov
DIW May-07

HENRY I. SCHANZER, ESQ.
29 BROOKFALL ROAD
EDISON NJ 08817

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Gupta et al.	:	DECISION ON PETITION
Application No. 10/210,882	:	
Filed: 2 August, 2002	:	
For: DIGITAL RF CORRELATOR FOR	:	
MULTIPURPOSE DIGITAL SIGNAL	:	
PROCESSING	:	

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 (NO FEE REQUIRED)" filed on 26 March, 2007.

The petition is **GRANTED**.

The application became abandoned on 16 February, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 15 November, 2006. Notice of Abandonment was mailed on 19 March, 2007.

Petitioners assert that a Change of Correspondence Address was filed on 30 October, 2006, but that the Notice of Allowance and Fee(s) Due mailed on 15 November, 2006, was subsequently mailed to the previous address of record due to Office error.

A review of the official record reveals on 30 October, 2006, a an oath or declaration and power of attorney was filed appointing Henry I. Schanzer, Esq, Reg. No. 25,219 as the attorney of record. Additionally, on 30 October, 2006, a change of correspondence address signed by attorney Schanzer was filed. On 15 November, 2006, the Notice of Allowance and Fee(s) Due was mailed to the previous address. On 27 November, 2006, a Notice of Regarding Change of Power of Attorney and a Notice of Acceptance of Power of Attorney was mailed, indicating that the power of attorney had been accepted and the correspondence address changed.

As such, the showing of record is that the Office erred in mailing the Notice of Allowance mailed on 15 November, 2006, to the previous address rather than the current correspondence address. As the error in mailing is due to an Office error, it is appropriate to remail the Notices mailed on 15 November, 2006, to the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application is referred to the Technology Center Technical Support Staff for remailing of the Notice of Allowance and Notice of Allowability mailed on 15 November, 2006. The time period for reply to the Notice(s) will be reset to run from the date the Notice(s) are remailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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MAR 2 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Laal et al.
Application No. 10/210,884
Filed: August 2, 2002
Attorney Docket No. 32004-182868

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 16, 2004, to revive the above-identified application. 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 September 3, 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 November 3, 2002. A Notice of Abandonment was mailed on January 30, 2004.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on April 3, 2003 of 1. Declaration for United States Patent Application, Power of Attorney, Designation of Correspondence Address; 2. Return Copy of Notice to File Missing Parts; 3. Verified Statement Claiming Small Entity Status; 4. Property Rights Statement and return Form PTOL-456; 5. Petition for Extension of Time (5 month); 6. Sequence Listing Statement; 7. Sequence Listing (CRF disk); and 8. Sequence Listing (paper copy).

The reply acknowledged as having been received in the USPTO on April 3, 2003 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. Accordingly, the $130.00 petition fee submitted with the instant petition on March 16, 2004 will be credited to petitioner's deposit account as authorized.

The Office sincerely apologizes for the inconvinience caused the petitioner in this matter.

This application is being returned to the Office of License and Review for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

WATCHSTONE P + D
1250 CONNECTICUT AVENUE, N.W.
SUITE 700
WASHINGTON DC 20036

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Noriaki Hashimoto :
Application No. 10/210,885 :
Filed: August 2, 2002 : DECISION ON PETITION
Attorney Docket No. 2910-103 : PURSUANT TO
Title: METHOD AND SYSTEM FOR : 37 C.F.R. § 1.137(B)
PREVENTING UNAUTHORIZED ACCESS :
TO THE INTERNET :

This is a decision on the petition filed August 22, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on December 19, 2006. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on February 20, 2007. A Notice of Abandonment was mailed on August 21, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner has submitted the petition fee, an Appeal Brief along with the associated fee, and the proper statement of unintentional delay.

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.

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 that was received on October 30, 2007 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 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[1]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MOLECULAR IMPRINTS, INC.
KENNETH C. BROOKS
PO BOX 81536
AUSTIN, TX 78708-1536

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APR 24 2006
OFFICE OF PETITIONS

In re Application of :
Sreenivasan, et al. : DECISION ON APPLICATION
Application No. 10/210,894 : FOR PATENT TERM ADJUSTMENT
Filed: August 1, 2002 :
Atty. Dkt. No: P38-12-02 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b)" filed February 8, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

On January 17, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 249 days. On February 8, 2006, applicants timely submitted the instant application for patent term adjustment[1].

Applicants request that the Determination of Patent Term Adjustment be corrected from 249 days, as indicated on the Determination of Patent Term Adjustment mailed January 17, 2006, to an adjustment of 312 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a), an adjustment of 437 days can be attributed to the Office.

An adjustment of 397 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1). The adjustment began October 2, 2003 and ended November 1, 2004. *See* 37 CFR 1.703(a)(1).

[1] PALM records show that the Issue Fee payment was received in the Office on March 10, 2006.

An additional adjustment of 40 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). The adjustment began December 9, 2005 and ended January 17, 2006. *See* 37 CFR 1.703(a)(2).

The adjustment of 437 days was properly reduced 188 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

The adjustment of 437 days was reduced 125 days in accordance with 37 CFR 1.704(b). The adjustment began February 2, 2005, the day after the date that is three months after the date that the non-final Office action was mailed, and ended June 6, 2005, the date the reply to the non-final Office action was filed.

The adjustment of 437 days was further reduced 63 in accordance with 37 CFR 1.704(c)(7). The reduction began June 7, 2005, the day after the date that the reply having an omission was filed, and ended August 8, 2005, the date that the reply or other paper correcting the omission was filed.

Applicants argue that the Office failed to mail an action under 35 USC 132 or 151 within four months of the date of receipt of applicants' reply submitted June 6, 2005. Applicants further argue that the reply submitted June 6, 2005 was a "bona fide attempt to advance" the application and that an action in response thereto was not mailed until January 17, 2006, thus entitling the application to an additional adjustment of 103 days.

Applicants' arguments have been considered but are not found to be convincing. An action was mailed on July 6, 2005 in response to applicants' reply submitted June 6, 2005 in the form of a Notice of Non-Compliant Amendment. As this action was mailed within four months of receipt of applicants' reply, no additional adjustment is appropriate.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 249 days, as indicated in the Notice of Allowance mailed January 17, 2006.

The required application fee of $200.00 has been charged to applicants' deposit account as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Leo Robert Blume	:	
Application No.: 10/210912	:	ON PETITION
Filing or 371(c) Date: 08/02/2002	:	
Attorney Docket Number: 100203644-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 17, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 17, 2007. Accordingly, the date of abandonment of this application is July 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: APR 18 2005

rvk
Paper Number: _____

In re application of :
Jeffrey D. Chinn et al :

DECISION ON
Serial No. 10/210,929 : PETITION
Filed: August 02, 2002 :
For: METHOD OF PLAMA ETCHING A DEEPLY RECESSED FEATURE IN A SUBSTRATE USING A PLASMA SOURCE GAS MODULATED ETCHANT SYSTEM :

This is a response to the NON-FEE PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed March 03, 2004 and October 21, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 17, 2004, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003 were not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003 were not received. Also provided is a

copy of the print-out from applicants' central docketing system for the instant application, where the Notice of Allowability and Notice of Allowance and Issue Fee Due would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jmstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA , CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

rvk

Mailed: APR 18 2005

Paper Number: _____

In re application of :
Jeffrey D. Chinn et al :

DECISION ON

Serial No. 10/210,929 : PETITION
Filed: August 02, 2002 :
For: METHOD OF PLAMA ETCHING A DEEPLY RECESSED FEATURE IN A SUBSTRATE USING A PLASMA SOURCE GAS MODULATED ETCHANT SYSTEM :

This is a response to the NON-FEE PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed March 03, 2004 and October 21, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 17, 2004, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003 were not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 23, 2003 were not received. Also provided is a

copy of the print-out from applicants' central docketing system for the instant application, where the Notice of Allowability and Notice of Allowance and Issue Fee Due would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA , CA 95052

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MICHAEL A. GUTH
2-2905 EAST CLIFF DRIVE
SANTA CRUZ, CA 95062

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OFFICE OF PETITIONS

In re Application of :
Emanuel F. Barros :
Application No. 10/210,975 : DECISION GRANTING PETITION
Filed: August 2, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. M-12855 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 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**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 17, 2003.[1] 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

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[1] A search of the USPTO PALM Intranet indicates that a PCT Application No. PCT/US03/01440 was filed January 17, 2003.

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 in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 8, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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DEC -1 2004

In re Application of	:	
Mary Benson	:	
Serial No. 10/210,996	:	DECISION ON PETITION
Filed: July 31, 2002	:	TO WITHDRAW AS ATTORNEY
For: TOILET PLUNGER CABINET SYSTEM	:	

By papers filed on July 29, 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:

Mary J. Benson
9084 Leinum Lane
Coeur d' Alene, ID 83814

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel
Neustel Law Offices, Ltd.
2534 S. University Drive, Suite 4
Fargo, ND 58103

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P.O. Box 1450
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BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of Bian et al. :
Application No. 10/211,001 : Decision on Petition
Filing Date: August 2, 2002 :
Attorney Docket No. 012/P53022 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 27, 2005. A Notice of Abandonment was mailed April 25, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Michael Willardson signed the instant petition. Williardson was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Williardson was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Williardson that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Mark G. Erlander et al. :
Application No. 10/211,015 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No.: 485772004320 :

This is a decision on the petition filed April 12, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 19, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 20, 2005. Accordingly, a Notice of Abandonment was mailed January 13, 2006.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on April 12, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 20-1430.

---

[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 matter is being referred to Technology Center 1631 for appropriate action on the amendment filed April 12, 2006.

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

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ERICSSON INC.
6300 LEGACY DRIVE
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PLANO TX 75024

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MAY 23 2008

OFFICE OF PETITIONS

In re Application of :
Haartsen, et al. :
Application No. 10/211,019 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. P15141-US2 :
For: METHOD FOR MAPPING QUALITY OF SERVICE REQUIREMENTS TO RADIO PROTOCOL PARAMETERS

This is a decision on the petition under 37 CFR 1.181, filed January 30, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed March 6, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on June 7, 2007 for failure to reply to the March 6, 2007 non-final Office action. A Notice of Abandonment was mailed on January 25, 2008.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a one month extension of time and an amendment were timely received in the Office on June 7, 2007. The undersigned finds this argument completely convincing, as these documents are present in the application file. Pursuant to petitioners' authorization, deposit account no. 50-1379 will be charged a $120.00 one month extension of time. The one month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 25, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2619 for consideration of the amendment filed on June 7, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 10

KEVIN L. RUSSELL
SUITE 1600
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Saroya, Jagtar Singh :
Application No. 10/211,020 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. KLR 7146.0144 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 11, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 12, 2003. A Notice of Abandonment was mailed on March 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on April 19, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 17

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Constantine N. Manis, et al. :
Application No. 10/211,031 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 102362-20 US :

This is a decision on the petition, filed August 5, 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 18, 2003.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2636 for consideration of the response filed August 5, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Christa Hilderbrand
Norris McLaughlin & Marcus, P.C.
220 East 42nd Street, 30th Floor
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

NORRIS MCLAUGHLIN & MARCUS, P.A.
P.O. BOX 1018
SOMERVILLE, NJ 08876

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
Manis et al. :
Application No. 10/211,033 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 103880-010US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed August 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 27, 2003. A Notice of Abandonment was mailed July 21, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Manis et al.	:	
Application No. 10/211,033	:	ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. 34585-545-059	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 25, 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 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

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JIM PATTERSON, ESQ.
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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In re Application of :
George R. Taylor :
Application No. 10/211,036 : DECISION GRANTING PETITION
Filed: August 2, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501175.01 :

This is a decision on the petition, filed April 5, 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 27, 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 2827 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\211036.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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF L JACK GIBNEY
8777 SAN JOSE BLVD
SUITE 502
JACKSONVILLE FL 32217

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Frank B. Silva	:	
Application No. 29/211,045	:	DECISION ON PETITION
Filed: August 10, 2004	:	
Title: Gear Shift Indicator	:	

This is a decision on the renewed petition to revive the above-identified application under 37 CFR 1.137(b), filed September 1, 2006.

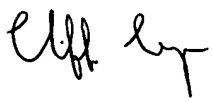
The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability, mailed June 22, 2005. This Notice set a statutory period for reply of three (3) months. No reply having been received, the application became abandoned on September 23, 2005. A Notice of Abandonment was mailed December 29, 2005. Applicant filed a petition to revive on January 20, 2006. However, the petition was dismissed in a decision mailed on August 24, 2006. The petition lacked a terminal disclaimer. In addition, the petition was not signed.

With the instant petition, petitioner has submitted a terminal disclaimer and fee. The other requirements for a grantable petition were satisfied with the earlier filed petition.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON TX 77010

COPY MAILED

MAR 1 5 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Soufi et al. :
Application No. 10/211,052 :
Filed: August 2 2002 :
Title: Method for Transforming Behavioral :
Architectural and Verification Specifications
into Cycle-based Compliant Specifications

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 5, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fee(s) , as required by the Notice of Allowance and Fee (s) Due which was mailed August 1, 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 November 3, 2006. A Notice of Abandonment was mailed on November 28, 2006.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on August 1, 2006 was not received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn

This application is being forwarded to Art Unit 2128 for re-mailing of the Notice of

Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

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. 6

James E. Walton
HILL & HUNN, LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102-3105

COPY MAILED

DEC 16 2002

OFFICE OF PETITIONS

In re Application of :
Gregory Kuelbs and Kenneth Ward :
Application No. 10/211,055 : DECISION REFUSING STATUS
Filed: August 1, 2002 : UNDER 37 CFR § 1.47(a)
Atty Docket No. 0638MH-41364-US :
Title: OIL BURNING LAMP :

This is in response to the "Petition under 37 C.F.R. §1.47" filed October 28, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on August 1, 2002, with a declaration executed by joint inventor Gregory Kuelbs on behalf of himself and on behalf of non-signing joint inventor Kenneth Ward. No petition accompanied this declaration. Accordingly, on August 30, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and the surcharge for late filing under § 1.16(e).

In response, rule 47 applicant timely filed the instant petition, along with payment of the petition fee. Pursuant to the authorization to charge any required fees, the late surcharge has been charged to Deposit Account No. 50-1060[1]. Rule 47 applicant asserts that status under § 1.47(a) is proper because inventor Ward because the other inventor and the assignee have been unable to locate inventor Ward to execute and file a declaration. On petition, attorney Walton sets forth the facts relied on to show that inventor Ward is unavailable. In support thereof, rule 47

[1] As both a 1.47 declaration and a grantable petition under 1.47 were not present in the application on filing, the late surcharge is required.

applicant submits *inter alia* a copy of a letter sent from inventor Kuelbs to inventor Ward dated September 27, 2002, requesting the inventor's signature on the declaration; and a copy of a certified mail receipt.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

Rule 47 applicant has not submitted adequate proof that inventor Ward cannot be reached or found after diligent effort, as alleged. Petitioner states that the assignee company does not have a forwarding address for inventor Ward. However, petitioner does not set forth sufficient facts to conclude that diligent efforts were undertaken to reach or locate inventor Ward. Petitioner does not indicate whether the mailing was returned undeliverable, and if so, whether notation of a forwarding address was included thereon. Nor does petitioner show that they utilized resources such as the Internet to locate inventor Ward. If further attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, directory assistance, or the Internet continue to fail, then applicant will have provided the necessary proof required under 37 CFR § 1.47 that the inventor cannot be reached. Details of the efforts to locate non-signing inventor Ward should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should also submit documentary evidence such as the results of an E-mail or Internet search.

Alternatively, the evidence submitted does not support a conclusion that inventor Ward, by his conduct in not responding, has refused to join in the application. The evidence does not show that inventor Ward was presented with all of the application papers. Both the correspondence to inventor Ward and the statements of fact of record indicate that the mailing to inventor Ward only included the declaration for patent. Before a refusal can be alleged, applicants 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. 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. See MPEP 409.03(d). To show refusal evidence making clear that a copy of all of the application papers was sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney is required. Documentary evidence copies of cover letters transmitting the application papers and certified mail return receipts, with verified English translations, should be made part of the record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

James E. Walton
HILL & HUNN, LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102-3105

COPY MAILED

FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Gregory Kuelbs and Kenneth Ward	:	DECISION NOTING JOINDER
Application No. 10/211,055	:	OF INVENTOR
Filed: August 1, 2002	:	AND
Atty Docket No. 0638MH-41364-US	:	PETITION UNDER
Title: OIL BURNING LAMP	:	37 CFR 1.47(a) MOOT

This is a decision on the "Request for Reconsideration of Petition under 37 CFR 1.47(a)," filed January 29, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on August 1, 2002, with a declaration executed by joint inventor Gregory Kuelbs on behalf of himself and on behalf of non-signing joint inventor Kenneth Ward, but without a petition under § 1.47. In response to a "Notice to File Missing Parts of Nonprovisional Application" mailed August 30, 2002, applicants filed the initial petition under § 1.47(a). However, this petition was dismissed for failure to show that inventor Ward either refused to join in the application after having been presented with the application papers or that inventor Ward could not be reached or found after diligent efforts to join in the application. (Decision mailed December 16, 2002).

On instant request for reconsideration, applicants timely replied with a declaration executed by previously non-signing inventor Ward. This declaration (considered in combination with the declaration previously filed August 1, 2002) has been reviewed and found in compliance with 37 CFR 1.63 and 1.64.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered 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 file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WORLD FACTORY, INC.
c/o LAW OFFICES OF JAMES E.
WALTON, P.L.L.C.
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Kuelbs et al.	:	
Application No. 10/211,055	:	
Filed: August 1, 2002	:	
Atty Docket No.:	:	
0638MH-41364-US	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed December 12, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed April 13, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 14, 2005. A Notice of Abandonment was mailed September 20, 2005.

With the instant petition, Applicant has submitted the issue fee.

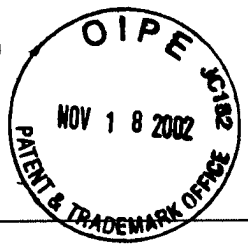
This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

#1 4

UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/211,060	08/02/2002	Mark Shannon	PB0152

CONFIRMATION NO. 2468

Amersham Biosciences Corp
800 Centennial Avenue
Piscataway, NJ 08855

FORMALITIES LETTER

OC000000009059179

Date Mailed: 11/05/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

11/20/2002 BABRAHA1 00000114 500588 10211060
01 FC:1051 130.00 CH

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

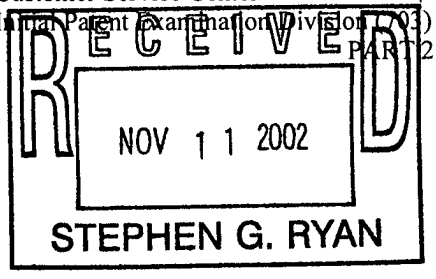
SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE



Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. PB0152

In Re Application Of: **M. Shannon**

Serial No.	Filing Date	Examiner	Group Art Unit
10/211,060	August 2, 2002	To be assigned	1634

Invention: **Human ZZAP1 Protein**

OIPE JC182 NOV 18 2002 PATENT & TRADEMARK OFFICE

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on

November 5, 2002
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☐ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☒ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

copy of this transmittal letter for charging purposes
return postcard

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. PB0152

In Re Application Of: **M. Shannon**

Serial No.	Filing Date	Examiner	Group Art Unit
10/211,060	**August 2, 2002**	**To be assigned**	**1634**

Invention: **Human ZZAP1 Protein**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee	
☐ Design application filing fee	
☐ Total number of independent claims = _____	
☐ Total number of claims = _____	
☐ Multiple dependent claims	
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	**$130.00**
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	
☐ Fee for processing an application filed with a non-English language specification	
☐ Fee for processing and retention of application	
Total completion of application fees	**$130.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees	**$0.00**
Total fees due	**$130.00**

P31LARGE/REV02

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. PB0152

OIPE JC182 NOV 18 2002 PATENT & TRADEMARK OFFICE

In Re Application Of: **M. Shannon**

Serial No.	Filing Date	Examiner	Group Art Unit
10/211,060	**August 2, 2002**	**To be assigned**	**1634**

Invention: **Human ZZAP1 Protein**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of **$130.00** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **500-588**
  A duplicate copy of this sheet is enclosed.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **500-588**
  A duplicate copy of this sheet is enclosed.

Signature

Dated: **November 13, 2002**

Royal N. Ronning, Jr.
Amersham Biosciences Corp
800 Centennial Avenue
Piscataway, New Jersey 08855

(732) 457-8423

Reg. No.: 32,529

I certify that this document and fee is being deposited on **November 13, 2002** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Melissa Leck

Typed or Printed Name of Person Mailing Correspondence

cc:

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER ERHMAN LLP
4350 LA JOLLA VILLAGE
DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
Glen Van Datta :
Application No. 10/211,075 : DECISION ON PETITION
Filed: July 31, 2002 : TO WITHDRAW
Attorney Docket No. 37090.6125 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Heller, Ehrman LLP has been revoked by the assignee of the patent application on March 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 12, 2007 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ALBERT S. PENILLA, ESQ.
MARTINE PENILLA &
GENCARELLA, LLLP
710 LAKEWAY DR.,
SUITE 200
SUNNYVALE, CA 94085

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
10/211,075	07/31/2002	Glen Van Datta	37090-6125

CONFIRMATION NO. 1558

OC000000023418195

25920
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

Date Mailed: 04/17/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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
10/211,075 *	07/31/2002	Glen Van Datta	37090-6125

CONFIRMATION NO. 1558

OC000000023418158

33123
HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

Date Mailed: 04/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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
10/211,075	07/31/2002	Glen Van Datta	37090-6125

CONFIRMATION NO. 1558

OC000000023418158

33123
HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

Date Mailed: 04/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of

Walker, et al. :

Application No. 10/211,078

: DECISION ON PETITION

Filed: August 1, 2002

:

Attorney Docket No. 08168-02001

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed October 17, 2006, which set a shortened period for reply of one (1) month from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on November 18, 2006. A Notice of Abandonment has not been mailed as of the mail date of this decision.

The election filed May 8, 2007, is noted.

"The Change of Correspondence Address" filed May 8, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3764 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Dennis Lee Kuehn	: DECISION ON REQUEST FOR
Patent Number	: 7631179	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/211,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **858** 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Dennis Lee Kuehn	: DECISION ON REQUEST FOR
Patent Number	: 7631179	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/211,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **858** 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.

Pet. Dec.

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ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 3/14/05

DWW
Paper No. ____

In re Application of
Cernohous et al.
Serial No.: 10/211,096
Filed: August 2, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: FLUORINATED POLYMERS

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed November 24, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the name of John S. Sokalski and Brian C. Eastin from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Office of Intellectual Property Counsel
3M Innovative Properties Company
PO Box 33427
St. Paul MN 55133-3427

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Richard M. Weber, et al. :
Application No. 10/211,104 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. 004578.1128 :

This is a decision on the petition, filed April 13, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2835 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Mumick, et al. :
Application No. 10/211,117 : DECISION ON PETITION
Filed: August 2, 2002 : TO WITHDRAW
Attorney Docket No. KIRU-0016 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on April 5, 2006.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Ashok Tankha, ESQ.
IP Porcure, Inc.
36 Greenleigh Drive
Sewell, NJ 08080

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ASHOK TANKHA
OF COUNSEL, LIPTON, WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
SEWELL NJ 08080

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OFFICE OF PETITIONS

In re Application of
Inderpal Singh Mumick et al.
Application No. 10/211,117
Filed: August 2, 2002
Attorney Docket No.: **KIRU-0016**

ON PETITION

This is a decision on the petition filed April 30, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

A shortened statutory period of three months was set for replying to the non-Final Office Action mailed December 5, 2006. A response was filed July 5, 2007 with a four month extension of time. However, pursuant to 37 CFR 1.136, only a three month extension of time was allowable. Thus, the application became abandoned June 6, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to Technology Center 2618 for appropriate action on the amendment filed April 30, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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ALAN C. GORDON
HELLER EHRMAN WHITE & McAULIFFE, LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122-11246

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OFFICE OF PETITIONS

In re Application of	:	
Datta et al.	:	DECISION ON PETITION
Application No. 10/211,129	:	TO WITHDRAW
Filed: July 31, 2002	:	FROM RECORD
Attorney Docket No. 86279/7503	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 17, 2006 the power of attorney to Heller Ehrman White and McAuliffe LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Fitch Even Tabin and Flannery
120 South Lasalle Street
Suite 1600
Chicago IL 60603-3406

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Glen Van Datta	: DECISION ON REQUEST FOR
Patent Number	: 7606920	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/211,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LEONARD D. BOWERSOX, ESQUIRE
KILYK & BOWERSOX, P.L.L.C.
3603 - E CHAIN BRIDGE ROAD
FAIRFAX, VA 22030

In re Application of :
Charles S. Vann, et al. :
Application No. 10/211,131 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. ABI-0058/4424D1 :

This is a decision in response to the petition, filed January 26, 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 April 4, 2006. A Notice of Abandonment was mailed on October 26, 2006. In response, on January 26, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1743 for consideration of the amendment filed January 26, 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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application
ACHARYA, TINKU, et al :
Serial No.: **10/211,161** :
Filed: August 2, 2002 : DECISION ON PETITION
For: **IMAGE COLOR MATCHING SCHEME** :

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed August 2, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1, and 2 be accepted in lieu of black and white drawing

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed without the 3(three) set of the color drawings in question in the paragraph above.

The petition is **DENIED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ANGELES CA 90025-1030

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application
ACHARYA, TINKU, et al
Serial No.: **10/211,161**
Filed: August 2, 2002
For: **IMAGE COLOR MATCHING SCHEME**

DECISION ON PETITION

This is a decision on the resubmitted petition under 37 C.F.R. § 1.84(a)(2), filed December 23, 2005, requesting acceptance of color drawings. The petition filed August 2, 2002, was denied due the incorrect number of color drawings.

The petition requests that the color drawings identified in Figures 1, and 2 be accepted in lieu of black and white drawing

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED.**

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of :
Bart W. Swinkels et al. :
Application No. 10/211,163 : DECISION ON PETITION
Filed: August 1, 2002 : TO WITHDRAW
Attorney Docket No. 246152008601 : 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 29, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas E. Ciotti on behalf of all attorneys of record who are associated with Morrison & Foerster LLP.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Bart S. Swinkels**
Schutterstraat 5
Delft, 2611 MX
Netherlands

cc: **Mr. Bryan H. Davidson**
Nixon & Vanderhye P.C.
901 Glebe Road, 11th Floor
Arlington, VA 22203-1808

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Foley & Lardner
402 W. Broadway, 23rd Floor
San Diego, CA 92101

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OFFICE OF PETITIONS

In re Application of
Dershem et al
Application No. 09/580,026
Filed: May 26, 2000
Attorney Docket No: QUANT1190-2

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed by facsimile transmission on October 12, 2001, requesting reconsideration of a decision mailed August 13, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventors (Dennis B. Patterson and Jose Osuna) have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for preexamination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of:
Dershem et al.
Application No. 10/211,168
Filed: August 1, 2002
Title of Invention:
THERMOSETTING RESIN COMPOSITIONS CONTAINING MALEIMIDE AND/OR VINYL COMPOUNDS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is a decision in response to the Transmittal of Missing Parts of Patent Application (hereinafter "Transmittal"), filed November 7, 2002, which is being treated as a petition to accord Rule 47 status to this application. The above-identified application is a divisional application of serial number 09/580,026, wherein inventors Dennis B. Patterson and Jose Osuna refused to sign the Declaration/Power of Attorney, and Rule 47 status was granted.

This application was filed on August 1, 2002, and included a copy of an oath/declaration filed in the parent application, serial number 09/580,026, and a copy of a petition granting Rule 47 status in application number 09/580,026.

In accordance with Rule 1.63(d)(3)(i), the petition is **granted**. This application is hereby accorded Rule 47 status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

No fee is required. The surcharge for late filing the oath or declaration has been refunded to Petitioner's deposit account 50-0872 as authorized in the Transmittal.

The application file is being forwarded to Technology Center AU 1714 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/08/2010

Applicant	: Guangming Carl Shi	: DECISION ON REQUEST FOR
Patent Number	: 7646737	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/211,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **90** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 03 2006

Technology Center 2100

Paper No.

Jack P. Friedman
SCHMEISER, OLSEN & WATTS
22 Century Hill Drive – Suite 302
Latham, New York 12110

In re Application of:
Nerenberg, et al.
Application No. 10/211,217
Filed: August 1, 2002
For: DEATH VISULAIZATION THERAPY

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. ∋1.102(c) AND MPEP ∋708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed June 05, 2006, under 37 C.F.R. ∋1.102(c) and M.P.E.P. ∋708.02(IV): Applicant's Age, to make the above-identified application special.

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 a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Philip Arnold Nerenberg's birth certificate establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

James R. Matthews

/JRM/ Vincent Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3613

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Paper No. 9

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

JAN 05 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Tal Dayan, et al. :
Application No. 10/211,224 :
Filed: August 1, 2002 :
For: ALTERNATIVE WIREFREE MOBILE DEVICE POWER SUPPLY METHOD & SYSTEM WITH FREE POSITIONING :

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, 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 Technology Center's Technical Support Staff for processing of the Request to Rescind Previous Request under 35 USC 122(b)(2)(B)(ii) and from there will be forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Dayan, et al. : DECISION ON PETITION
Application No. 10/211,224 :
Filed: August 1, 2002 :
Docket No.: 6041.P005 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 21, 2007.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed February 6, 2006. Notice of Abandonment was mailed August 11, 2006.

Petitioners' arguments have been carefully considered and found convincing. A review of the record reveals that a reply to the non-final Office action was properly filed August 7, 2006, along with a petition for a three month extension of time. As the three month extension of time was not charged at the time of receipt of the response, said charge has been applied to applicants' deposit account.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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EITAN LAW GROUP
C/O LANDON IP INC.
1700 DIAGONAL ROAD, SUITE 450
ALEXANDRIA, VA 22314

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DEC 28 2006

OFFICE OF PETITIONS

In re Patent No. 7,062,619 :
Issue Date: June 13, 2006 : ON PETITION
Application No. 10/211,235 :
Filed: August 5, 2002 :
Attorney Docket No. P-4875-US :

This is a decision on the "Request for Certificate of Correction," filed October 17, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] for issuance of a Certificate of Correction to reflect the correct assignee data on the front page of the above-identified patent.

The request is **GRANTED**.

The request seeks to correct the omission of the "s" in Semiconductors in the assignee's name currently appearing on the printed patent and to include a second assignee; namely, Infineon Technologies Flash Ltd., as recorded in the records of the U.S. Patent and Trademark Office (USPTO).

The request states that the correction of the assignees' names is not due to an error on the part of the applicant, but, rather is an error on the part of the USPTO. In reviewing the Part B - Fee(s) Transmittal form submitted to the USPS on March 7, 2006, it is noted that the second assignee's name was omitted therefrom; however, the Office erred in not printing the "s" on the first assignee's name. Nevertheless, as an assignee's name is printed in accordance with the information provided by the applicant on the Fee(s) Transmittal form, the error in the omission of the second assignee's name cannot be attributed to the USPTO. Accordingly, a request under 37 CFR 3.81(b) is the appropriate avenue of relief to correct the omission of the second assignee's name on the Fee(s) Transmittal form. Therefore, as authorized, the $130 fee for the request and the $100 fee for the Certificate of Correction will be charged to petitioner's deposit account.

The request satisfies the requirements of 37 CFR 3.81(b). Accordingly, this matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

It is noted that the address appearing on the request is different from the address of record. If appropriate, a change of address and/or a Fee Address Indication Form should be submitted if it is desired to receive future correspondence relating to this patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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MAY 31 2006

OFFICE OF PETITIONS

In re Application of
Shih-Zheng Kuo
Application No. 10/211,268
Filed: August 5, 2002
Attorney Docket No. 4425-270

ON PETITION

This is a decision on the petition filed March 6, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 5, 2006 for failure to timely pay the issue fee on or before January 4, 2006. Accordingly, a Notice of Abandonment was mailed February 21, 2006.

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 may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Christian Pan et al :
Application No. 10/211,277 :
Filed: August 5, 2002 :
Attorney Docket No. 222138US0 :

This is a decision on the petition, filed December 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Christian Pan et al
Application No. 10/211,277
Filed: August 5, 2002
Attorney Docket No. 222138US0

This is a decision on the petition, filed December 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED: 12/15/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 12/15/04
Type of Resp(s):
Due Date(s):

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of :
Yoshihiko Takahashi et al :
Application No. 10/211,291 : DECISION GRANTING PETITION
Filed: August 5, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 113383 :

This is a decision on the petition, filed December 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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JONATHAN BOCKMAN
MORRISON & FOERSTER LLP
SUITE 5500
2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20006-1888

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OFFICE OF PETITIONS

In re Patent No. 6,914,704 :
Issue Date: July 5, 2005 :
Application No. 10/211,300 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket Number: :
495812002800

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 2, 2005.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

This file is being forwarded to the Files Repository.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

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AUG 22 2003

OFFICE OF DIRECTOR
GROUP

BIRCH STEWART KOLASH & BIRCH
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of)
Daniel Brown)
Application No. 10/211,320) DECISION ON REQUEST TO
Filed: August 5, 2002) WITHDRAW FROM RECORD
For: Attorney Docket No. 2119-0191P)

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 1, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements .

The request is APPROVED

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Patent Administrator
Mems Optical, Inc.
205 Import Circle, Suite 2
Huntsville, AL 35806

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KCO LAW P.L.L.C.
/DBA KEADY, OLDS & MAIER, PLLC
128 NORTH PITT STREET, 2ND FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Daniel Brown :
Application No. 10/211,320 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. MEMS-0191-US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed December 1, 2003. Accordingly, this application became abandoned on March 2, 2004. A Notice of Abandonment was mailed on August 25, 2004.

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 $490.00 extension of time submitted with the petition on October 12, 2004 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 50-3136.

The file is being forwarded to Technology Center 2800 for review of the amendment, filed October 12, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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January 30, 2004

Gary S. Morris
Kenyon & Kenyon
1500 K Street, N. W., Suite 700
Washington, D C 20005

In re application of:
Bertrand Peralta, et al
Serial No.: 10/211,321
Filed: August 5, 2002
For: METHOD AND SYSTEM FOR INFORMATION AGGREGATION AND FILTERING

DECISION ON PETITION

This is a decision on the petition received on July 14, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F. R. 1.113, in a timely manner to the Notice of Missing Parts of Application mailed September 3, 2002

On March 26, 2003, the attorney responded to the Notice of Missing Parts with an incomplete response and 5 months of extension. A Notice of Incomplete Reply was mailed on April 15, 2003 to correct the remaining informalities.

On July 14, 2003, the office received a communication from the attorney of record. Enclosed was a petition and the response to the Notice of Incomplete Reply mailed on July 14, 2003.

The petition is hereby Granted.

The petition fee of $130 will be charged to counsel Deposit Account 11-0600 to complete the application.

The application has been completed for release to Technology Center 2171.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

MAIL

MAY 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037

In re Application of: Emmanuel ROMAGNOLI	)	
Application No. 10/211,354	)	**DECISION ON REQUEST FOR**
Filed: August 5, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: MANAGEMENT SYSTEM FOR A CLUSTER	)	

This is a decision on the Request To Withdraw from Representation filed March 25, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

No further communication to you regarding this application will be made. All future communications from the United States Patent and Trademark Office will continue to be directed to the below-listed address.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
990 MARSH ROAD
MENLO PARK CA 94025

In re Application of	:	
Alan WHELLER, et al	:	
Application No. 10/211,388	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. 18AT-139673	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 23, 2009.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Daniel C. Kloke does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
990 MARSH ROAD
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Alan WHEELER, et al	:	CORRECTED
Application No. 10/211,388	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. 18AT-139673	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 23, 2009.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Daniel C. Kloke does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 6

LATHROP & GAGE LC
1845 S. NATIONAL
P.O. BOX 4288
SPRINGFIELD MO 65101

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
John Raidel, Bruce Barton, Jason Klein, and Emmitt Scammahorn
Application No. 10/211,403
Filed: August 2, 2002
Attorney Docket No. 391828
Title: SUSPENSION BEAM AND BUSH ATTACHMENT ASSEMBLY

DECISION ON PETITION

This is a decision on the petition pursuant to 37 C.F.R. §1.47(a)[1], filed on November 1, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

On August 2, 2002, the application was deposited, identifying John Raidel, Bruce Barton, Jason Klein, and Emmitt Scammahorn as joint inventors. The submitted declaration was not executed by inventor Klein. On September 6, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring a fully executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

With the instant petition, the petitioner has included the petition fee, the $65.00 surcharge, and a statement of facts.

The documents submitted establish that a complete copy of the application papers was sent to the non-signing inventor at his last known address, and he has failed to respond.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. A blank copy of this form may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

cc: 1845 S. NATIONAL
P.O. BOX 4288
SPRINGFIELD MO 65808

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Jason Klein
P.O. Box 3742
Springfield, MO 65802

In re Application of
John Raidel, Bruce Barton, Jason Klein, and Emmitt Scammahorn
Application No. 10/211,403
Filed: August 2, 2002
Attorney Docket No. 391828
Title: SUSPENSION BEAM AND BUSH ATTACHMENT ASSEMBLY

LETTER

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FEB 05 2003

OFFICE OF PETITIONS

Dear Mr. Klein:

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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

LATHROP & GAGE LC
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P.O. BOX 4288
SPRINGFIELD MO 65101

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,584,950
DATED : December 17, 1996
INVENTOR(S) : Walter J. Gaffigan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, Line 8;

"File" should be –The–.

Column 2, Line 67;

After "40%" insert –to–.

Column 7, Line 45;

"C." should be –O.C.–.

Column 7, Line 49;

"C." should be –O.C.–.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,298,694
DATED : March 29, 1994

INVENTOR(S) : Delton R. Thompson and Joseph A. Stroh

It is certified that error appears in the above-indentified patent and that said Letters Patent is hereby corrected as shown below:

Col. 1, line 52	delete "is"
Col. 2, line 47	replace "Mm" with -- mm -- both occurrences
Col. 5, lines 8, 9 and 10	replace "Mm" with -- mm -- all occurrences
Col. 6, line 12	delete "is"
Col. 6, line 39	replace "Mm" with -- mm --
Col. 8, line 23	delete "is"
Col. 9, line 29	delete "is"
Col. 13, line 35	replace "Mm" with -- mm --
Col. 16, line 31	replace "Mm" with -- mm --
Col. 16, line 33	"for sound" should read -- for % sound --

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,298,694
DATED : March 29, 1994
INVENTOR(S) : Delton R. Thompson and Joseph A. Stroh

It is certified that error appears in the above-indentified patent and that said Letters Patent is hereby corrected as shown below:

Col. 20, line 9	delete "is"
Col. 21, line 2	replace "Mm" with -- mm --, both occurrences
Col. 21, line 22	"comprise about" should read -- comprise at least about --

Signed and Sealed this
Fourth Day of October, 1994

Attest:

Attesting Officer

BRUCE LEHMAN
Commissioner of Patents and Trademarks

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 5,804,512
DATED : September 8, 1998
INVENTOR(S) : Lickfield et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page, item [56],

In the References Cited, U.S. PATENT DOCUMENTS, line 25, "Yausa" should read --Yuasa--; line 27, "Temmons" should read --Timmons--; line 29, "Hassenboehler" should read --Hassenboehler, Jr. et al.--.

Add --FOREIGN PATENT DOCUMENTS

674,035	9/1995	EPO
W093/15251	8/1993	PCT US93/00950
754,796	1/1997	EPO--.

Signed and Sealed this

Eleventh Day of January, 2000

Attest:

Attesting Officer

Q. TODD DICKINSON

Acting Commissioner of Patents and Trademarks

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 5,584,950
DATED : December 17, 1996
INVENTOR(S) : Walter J. Gaffigan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 7, Line 54;

"4' x 4"" should be –4' x 4'–.

Column 7, Line 57;

"4" x 4"" should be –4' x 4'–.

Column 10, Line 2;

"TM50" should be –PK50–.

Signed and Sealed this

Twenty-fourth Day of June, 1997

Bruce Lehman

Attest:

BRUCE LEHMAN

Attesting Officer

Commissioner of Patents and Trademarks

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GRANVILLE OH 43023

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APR 18 2008

In re Application of	:	
Jeffrey A. Tilton	:	
Application No. 10/211,407	:	DECISION GRANTING PETITION
Filed: August 2, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 25230A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 1794 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.*

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: James M. Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7632916	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/211,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1158** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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MAY 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Casenave et al. :
Application No. 10/211,417 :
Filed: August 1, 2002 :
Attorney Docket No. 15675P318X :

This is a decision on the petition under 37 CFR 1.137(a), filed May 6, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 10, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 11, 2002. A Notice of Abandonment was mailed on February 4, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Osman et al.	:	
Application No. 10/211,434	:	DECISION ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. ASTU-011/00US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

Petitioner requests waiver of the petition fee based on allegations of incorrect information given by employees of the USPTO during various telephone conversations. Petitioner is reminded that official communication with the Office must be carried out in writing . 37 CFR 1.2. Oral advice or statements by Office employees are not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985).

Further, petitioner states that "the Electronic Patent Application Fee Transmittal references a request for continued examination and fee of $395.00. Therefore, through the filing of the $395.00 and the indication on the Electronic Patent Application Fee Transmittal form, Applicants have complied with the requirements of the rule." The indication on the Electronic Patent Application Fee Transmittal is not considered to properly comply with 37 CFR 1.114. There must be a clear indication from the applicant for a request for continued examination with the proper form and language.

Accordingly, in view of the above, the petition fee will not be waived.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2144 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Glenn E. Von Tersch
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of :
Ming-Tao Liou et al. :
Application No. 10/211,442 : DECISION ON PETITION
Filed: August 2, 2002 : TO WITHDRAW
Attorney Docket No. 5306P076 : 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 4, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Blakely, Sokoloff, Taylor & Zafman LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/211,442	08/02/2002	Ming-Tao Liou	5306P076

CONFIRMATION NO. 8852

OC000000021235570

OC000000021235570

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1026

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
LIOU, et al. :
Application No. 10/211,448 : DECISION ON PETITION
Filed: August 2, 2002 : TO WITHDRAW
Attorney Docket No. 5306P051 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova and all the attorneys/agents of record have been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Campbell Stephenson Asocolese LLP**
4807 Spicewood Spring Road
Bldg.4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/211,448	08/02/2002	Ming-Tao Liou	5306P051

CONFIRMATION NO. 9991

OC000000020616104

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/211,448	08/02/2002	Ming-Tao Liou	5306P051

CONFIRMATION NO. 9991

OC000000020616119

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 09/28/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:_____

DATE : Sept. 25, 2008

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/211448 Patent No.: 7299230

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/John E Breene/ SPE AU 2162

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Advanced Bionics Corporations
25129 Rye Canyon Road
Valencia, CA 91355

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :

Todd K. Whitehurst et al. :
Application No. 10/211,463 : DECISION ON PETITION
Filed: August 2, 2002 : TO WITHDRAW
Attorney Docket No. 279.D60US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 26, 2006.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because customer number 63364 did not give power of attorney.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: Marvin Beekman, Schwegman, Lundberg, Woessner & Kluth
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 10/211,463	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. 279.D60US1	:	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 February 14, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bryant R. Gold and Laura Haburay Bishopp does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Schwegman, Lundberg & Woessner, P.A.**
P.O. Box 2938
Minneapolis, MN 55402

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Boston, MA 02110

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SEP 15 2008

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 10/211,463	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. 279.D60US1	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 6, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the revocation of power of attorney filed August 9, 2007 appointed the attorney(s) and/or agent(s) of record by customer number 21186. The attorneys listed in the revocation were not entered individually because there were more than 10 entries to be entered.

The attorneys Bryant R. Gold and Laura Haburay Bishop were never entered into out system as attorneys of record.

The Office also 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, ***ownership transfer***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Schwegman, Lundberg & Woessner, P.A.**
P.O. Box 2938
Minneapolis, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 14, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/211471 Patent No.: 6855259 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.

xApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Necholus Ogden, Jr. Primary Examiner Art Unit 1796

UNITED STATES 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 G. Rosenbaum, Esq.
Rosenbaum & Associates
650 Dundee Road
Suite #380
Northbrook, IL 60062

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JAN 1 4 2008

OFFICE OF PETITIONS

In re Application of
Denes Marton, et. al.
Application No. 10/211,489
Filed: August 2, 2002
Attorney Docket No. 6006-056

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on December 6, 2007, to revive the above-identified application.

The application became abandoned for failure to properly respond to the Notice of Allowance and Fee(s) Due mailed on July 31, 2007.

Finance records disclose that petitioner's $1,740 check, dated October 31, 2007, was returned to the Office for insufficient funds. Therefore, a bounced check fee of $50 has been charged to petitioner's deposit account, as authorized.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee, $300 for payment of the publication fee and $50 for payment of the bounced check fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YING WANG
23637 COUNTRY VIEW DRIVE
DIAMOND BAR, CA 91765

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Patent of	:	
Wang et al.	:	
Patent No. RE40019	:	
Issue Date: 01/22/2008	:	
Original Patent No. 6,101,199	:	
Original Issue Date: August 8, 2000	:	
Application No 10/211490	:	DECISION
Filing or 371(c) Date: 08/01/2002	:	ON PETITION
Title of Invention:	:	
HIGH POWER HIGH EFFICIENCY	:	
CLADDING PUMPING FIBER LASER	:	

This is a decision on the petition under 37 CFR § 1.378(b), to reinstate the above-identified patent, filed February 4, 2009.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.378(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The patent is a reissue of U.S. Patent No. 6,101,199, issued August 8, 2000. Patentee could have paid the seven and one half (7½) year maintenance fee between August 8, 2007, and February 8, 2008, without a surcharge, or within the six (6) month grace period between February 9, 2007 and August 8, 2008. Patentee failed to do so; accordingly, the patent became expired on August 9, 2008.

The present petition

Patentee, one of three inventors, files the present petition and explains that the patentee had been working closely with a Mr. Hynes of the law firm of Townsend, Townsend and Crew, LLP, who retired. Patentee asserts that they thought that Mr. Hynes had arranged everything regarding this

case or had passed the file to his collegues. However, the law firm thought that Patentees would act by themselves since the Patentees had not appointed an attorney to replace Mr. Hynes. This mis-communication caused the unavoidable abandonment of the present patent, since Patentees were not notified. Patentees also provide thatthey have had problems with their mailbox. In addition to not having received notice of the patent expiration, other Office actions have no been received. Patentees are not clear on what caused the problem, and believe the mail system is reliable. Patentee's request waiver of the petition fee.

Applicable Law, Rules and MPEP

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

> (A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
> (B) the surcharge set forth in 37 CFR 1.20(i)(1); and
> (C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c)

and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder does not constitute unavoidable delay. See Patent No. 4,409,763, supra. See also Final Rule entitled "Final Rules for Patent Maintenance Fees," published in the Federal Register at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the Official Gazette at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable.

Moreover, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

Opinion

Initially it is noted that the person signing the petition has not demonstrated that he is authorized to act in this patent. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. **This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant**.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Ying Wang) was ever given a power of attorney to act on behalf of inventors Zhijang Wang or Alice C. Gheen, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unavoidable delay.

Moreover, Petitioner/Patentee has failed to submit the appropriate petition fee. The surcharge for a petition to reinstate an expired patent based upon an unavoidably delayed payment of a maintenance fee is currently $700.00. Here, Patentee has submitted the fee for a petition to revive an application abandoned unavoidable. The petition required is a petition to reinstate a patent based upon an unavoidably delayed payment of a maintenance fee. The proper surcharge is required. Patentee must submit the appropriate maintenance fee before a petition under 37 CFR 1.378(b) may be considered on its merits. Further to this, the petition fee is required in accordance with the applicable Rule, and may only be waived upon a showing of extraordinary circumstance where justice requires waiver of the Rules. Petitioner is advised that a party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omis-sion considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995), a failure to follow the rules of practice do not present an extraordinary circumstance.

Conclusion

Patentee has failed to submit a properly executed petition, and has failed to submit the proper petition fee.

Before the petition may be considered on the merits, it must be properly executed, and the appropriate petition fee must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

YING WANG
23637 COUNTRY VIEW DRIVE
DIAMOND BAR, CA 91765

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FEB 18 2010

OFFICE OF PETITIONS

In re Patent of	:	
Wang et al.	:	
Patent No. RE40019	:	
Issue Date: 01/22/2008	:	
Original Patent No. 6,101,199	:	
Original Issue Date: August 8, 2000	:	
Application No 10/211490	:	DECISION
Filing or 371(c) Date: 08/01/2002	:	ON PETITION
Title of Invention:	:	
HIGH POWER HIGH EFFICIENCY	:	
CLADDING PUMPING FIBER LASER	:	

This is a decision on the petition under 37 CFR § 1.378(c), to reinstate the above-identified patent, filed October 15, 2009.

The petition is **GRANTED**.

The patent is a reissue of U.S. Patent No. 6,101,199, issued August 8, 2000. The grace period for paying the seven and one half (7½) year maintenance fee expired on August 9, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The file is being referred to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Anatoly Z. Rosenflanz	: DECISION ON REQUEST FOR
Patent Number	: 7625509	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/211,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **781** 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 05/17/2010

Applicant : Anatoly Z. Rosenflanz
Patent Number : 7625509
Issue Date : 12/01/2009
Application No: 10/211,491
Filed : 08/02/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/1/06

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/211495 Patent No.: 7003750

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE

2825
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 03, 2008

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/211502 Patent No.: 7294338 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: _____

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

B Campbell — **SPE**

1648 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

APR 0 2 2003

Technology Center 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

Christopher L. Johnson
KIRTON and MCCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of:
Jeffrey R. CRANE
Application No. 10/211,506
Filed: August 2, 2002
For: METHOD AND SYSTEM FOR PROVIDING A COMPUTER NETWORK-BASED COMMUNITY BUILDING FUNCTION THROUGH USER-ALLY ASSOCIATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed March 04, 2003 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submissions of March 04, 2003 meet the criteria set forth above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent A. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FUESS & DAVIDENAS
Suite II-G
10951 Sorrento Valley Road
San Diego CA 92121-1613

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APR 10 2006
OFFICE OF PETITIONS

In re Application of	:	
Openiano	:	
Application No. 10/211,512	:	ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. RMO 0055P	:	
For: DRILL AND DRIVER BIT DISPENSING SYSTEM	:	

This is a decision on the petition 37 CFR 1.181, requesting withdrawal of the holding of abandonment of the above-identified application. The petition was filed on March 9, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

This application was held abandoned for failure to timely submit the full issue fee within three months of the mailing of the August 26, 2005 Notice of Allowance and Fee(s) Due. Applicant submitted a completed Part B-Fee(s) Transmittal, the $300.00 publication fee, and $200.00 towards the $700.00 issue fee on certificate of mailing date November 28, 2005. The application became abandoned on November 27, 2005 for failure to submit the entire issue fee. A Notice of Abandonment was mailed on January 25, 2006.

Petitioner argues that the Office should not have accepted a partial payment of the issue fee, the Office should have informed petitioner of the insufficiency of the payment, and if not timely submitted, the Office should decline the partial payment.

Although the PTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so. See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r

Pat. 1994). Rather, it is the applicant who is ultimately responsible for filing proper documents. Id. Furthermore, sometimes there is a delay before papers are matched with the correct application file. It was possible that a second supplemental partial payment of the issue fee was present in the Office on November 28, 2005, but not matched with the correct application file.

The goal of the whole patent process is to issue an enforceable patent. This goal is shared by the Office and the applicant. Applicant made a decision to pursue the patenting of his invention. Petitioner was informed that a $700.00 issue fee was due. Petitioner chose to pay $200.00. The issue fee was properly due and applicant submitted money towards it. The decision to remit the money was intentional.

The Office has not changed the requirements listed in the August 26, 2005 Notice of Allowance and Fee(s) Due. Unfortunately, applicant did not pay the full amount, as listed in the Notice of Allowance and Fee(s) Due. Applicant is not permitted weigh the benefits of patent issuance, submit a dollar amount he thinks is appropriate for the issue fee, and obtain a patent. The issue fee is not negotiable. A change in heart after payment, whether the payment was in full or partial, does not negate the fact that applicant chose to submit the money. No refund is possible in this case. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). 37 CFR 1.26(a)

Petitioner is informed that Notices of Allowability and Notices of Allowance and Fee(s) Due set forth concurrent but distinct requirements with which applicants are required to comply. Different personnel in the Office handle issue fee matters and drawing matters. No fraud was perpetrated on the applicant when a draftsperson required corrected drawings on January 3, 2006. Any future patent could not issue without acceptable drawings.

The petition under 37 CFR 1.181 is dismissed. The application became abandoned because applicant did not comply with a plainly stated requirement in the Notice of Allowance and Fee(s) Due. A $700.00 issue fee was due by November 28, 2005 and applicant did not timely submit it.

Petitioner is urged to file a petition to revive under 37 CFR 1.137(b), the unintentional standard. As stated in 37 CFR 1.137(c), "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance."

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 concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

FOR REFERENCE ONLY

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FULBRIGHT & DAVIDENAS
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10951 Sorrento Valley Road
San Diego CA 92121-1613

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APR 10 2006
OFFICE OF PETITIONS

In re Application of
Openiano
Application No. 10/211,512
Filed: August 2, 2002
Attorney Docket No. RMO 0055P
For: DRILL AND DRIVER BIT DISPENSING SYSTEM

ON PETITION

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Petitioner argues that the Office should not have accepted a partial payment of the issue fee, the Office should have informed petitioner of the insufficiency of the payment, and if not timely submitted, the Office should decline the partial payment.

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The goal of the whole patent process is to issue an enforceable patent. This goal is shared by the Office and the applicant. Applicant made a decision to pursue the patenting of his invention. Petitioner was informed that a $700.00 issue fee was due. Petitioner chose to pay $200.00. The issue fee was properly due and applicant submitted money towards it. The decision to remit the money was intentional.

The Office has not changed the requirements listed in the August 26, 2005 Notice of Allowance and Fee(s) Due. Unfortunately, applicant did not pay the full amount, as listed in the Notice of Allowance and Fee(s) Due. Applicant is not permitted weigh the benefits of patent issuance, submit a dollar amount he thinks is appropriate for the issue fee, and obtain a patent. The issue fee is not negotiable. A change in heart after payment, whether the payment was in full or partial, does not negate the fact that applicant chose to submit the money. No refund is possible in this case. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). 37 CFR 1.26(a)

Petitioner is informed that Notices of Allowability and Notices of Allowance and Fee(s) Due set forth concurrent but distinct requirements with which applicants are required to comply. Different personnel in the Office handle issue fee matters and drawing matters. No fraud was perpetrated on the applicant when a draftsperson required corrected drawings on January 3, 2006. Any future patent could not issue without acceptable drawings.

The petition under 37 CFR 1.181 is dismissed. The application became abandoned because applicant did not comply with a plainly stated requirement in the Notice of Allowance and Fee(s) Due. A $700.00 issue fee was due by November 28, 2005 and applicant did not timely submit it.

Petitioner is urged to file a petition to revive under 37 CFR 1.137(b), the unintentional standard. As stated in 37 CFR 1.137(c), "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance."

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Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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10951 Sorrento Valley Road
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OFFICE OF PETITIONS

In re Application of :
Openiano :
Application No. 10/211,512 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. RMO 0055P :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 16, 2006 (certificate of mailing date October 9, 2006), requesting revival of the above-identified application.

This application was held abandoned for failure to timely submit the full issue fee within three months of the mailing of the August 26, 2005 Notice of Allowance and Fee(s) Due. Applicant submitted a completed Part B-Fee(s) Transmittal, the $300.00 publication fee, and $200.00 towards the $700.00 issue fee on certificate of mailing date November 28, 2005. The application became abandoned on November 27, 2005 for failure to submit the entire issue fee. A Notice of Abandonment was mailed on January 25, 2006.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85B, an acceptable statement of the unintentional nature of the delay in responding to the August 26, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for consideration of the drawing corrections filed on March 9, 2006 (certificate of mailing date March 3, 2006).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2 CA CANADA

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OFFICE OF PETITIONS

In re Application of
Hakka et al.
Application No. 10/211,514
Filed: August 5, 2002
Attorney Docket No.
10539-9/PMdC

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This file is an Image File Wrapper file and, as such, no forwarding of the file is necessary. Examination of the application in Technology Center Art Unit 2621 will proceed in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of
Say Ling Wen, et al.
Application No. 10/211,524
Filed: August 5, 2002
Attorney Docket No. P68080US0

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 7, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 13, 2006. A Notice of Abandonment was mailed on October 19, 2006. In response, on November 7, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Patent No. 7,212,967 :
Issue Date: May 1, 2007 :
Application No. 10/211,524 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. P68080US0 :

This is a decision on the petition filed November 29, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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FELIX J. D'AMBROSIO
JONES TULLAS & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON, VA 22202

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Timothy Tyree :
Application No. 10/211,553 : DECISION ON PETITION
Filed: August 5, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition, filed July 14, 2006, 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 31, 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 will be mailed in a separate correspondence.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on February 28, 2006. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the authorization to charge, the petitioner is being charged the $300 publication fee. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. *See* 37 CFR 1.211(e).

This application is being forwarded to Publishing Division.

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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SEP 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Anatoly Z. Rosenflanz, et al.	:	
Application No. 10/211,598	:	DECISION GRANTING PETITION
Filed: August 2, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 56931US005	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 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 August 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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SEP 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Anatoly Z. Rosenflanz	:	
Application No. 10/211,629	:	DECISION GRANTING PETITION
Filed: August 2, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 56931US004	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 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 August 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SEP 16 2008

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:	
Anatoly Z. Rosenflanz et al	:	
Application No. 10/211,630	:	DECISION GRANTING PETITION
Filed: August 2, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 56931US006	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 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 August 18, 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 1794 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

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of :
Van Der Pols, Erik B. :
Application No. 10/211,634 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. MR1683-772 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 17, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 3700 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
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MILLER THOMPSON, LLP
20 QUEEN STREET WEST, SUITE 2500
TORONTO, ONTARIO M5H 3S1
CANADA

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NOV 14 2005

OFFICE OF PETITIONS

In re Application of :
Bruce Mead :
Application No. 10/211,643 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. 55733-0012 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed August 25, 2004. A two (2) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is January 26, 2005. A Notice of Abandonment was mailed on May 9, 2005.

The file is being forwarded to Technology Center 1700 for review of the Request for Continued Examination and amendment, filed August 25, 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Matthew W. Siegal
STROOCK & STROOCK & LABAN LLP
180 Maiden Lane
New York, NY 10038

MAILED

JUL 03 2006

Technology Center 2100

In re Application of:
David Jean-Philippe Danon
Application No. 10/211,702
Filed: August 1, 2002
For: METHOD AND SYSTEM FOR COMMUNICATING, CREATING AND INERACTING WITH CONTENT BETWEEN AND AMONG COMPUTING DEVICES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 13, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 13, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

/JM/ Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: David Jean-:hilippe Danon
c/o SONIC BRANDING SOLUTIONS, LLC
20 West 22nd Street, Suite 1604
New York, NY 10010

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Shuichi Ueno et al :
Application No. 10/211,705 : DECISION GRANTING PETITION
Filed: August 5, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 225923US2 :

This is a decision on the petition, filed September 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 16 2005
PATENT & TRADEMARK OFFICE

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

SEP 29 2004

OFFICE OF PETITIONS

In re Application of :
Shuichi Ueno et al :
Application No. 10/211,705 : DECISION GRANTING PETITION
Filed: August 5, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 225923US2 :

This is a decision on the petition, filed September 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2811 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

RECEIVED: 10/1/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 10/1/04
Type of Resp(s):
Due Date(s):

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/17/2008**

TO SPE OF : ART UNIT **2165 (2100)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/211,713** Patent No.: **7,028,030**

Attn: Yicun Wu

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter changes to claims 6 & 8 as requested in COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____

MOHAMMAD ALI
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

MOHAMMAD ALI
SUPERVISORY PATENT EXAMINER

SPE Art Unit 2169

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

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DEC 21 2004

OFFICE OF PETITIONS

In re Application of :
Edward M. Rudnic, et al. :
Application No. 10/211,729 : ON PETITION
Filed: August 2, 2002 :
Atty Docket No. 206200-39 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 12, 2004, to revive the above-identified application.

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed October 12, 2004.

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center AU 1615.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

WELSH & KATZ
ERIC D. COHEN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

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SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Serge Bruno :
Application No. 10/211,740 : NOTICE
Filed: August 2, 2002 :
Attorney Docket No. 6787-88005 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Christoph Kuebler :
Application No. 10/211,750 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. (Z) 00010 P US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 8, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on July 10, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the final Office action mailed April 8, 2004. The 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)). Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/211,750	08/02/2002	Christoph Kuebler	(Z) 00010 P US

CONFIRMATION NO. 7858

M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

OC000000020649341
OC000000020649341

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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
10/211,750	08/02/2002	Christoph Kuebler	(Z) 00010 P US

CONFIRMATION NO. 7858

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000020649361

OC000000020649361

Date Mailed: 09/29/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2006.

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.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT COPY

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MINNEAPOLIS, MN 55440-1022

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of :
Christoph Kuebler, :
Application No. 10/211,750 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. (Z) 00010 P US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 8, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance,

the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Christoph Kuebler :
Application No. 10/211,750 : ON PETITION
Filed: August 2, 2002 :
Attorney Docket No. (Z) 00010 P US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3723 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110