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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NORRIS MCLAUGHLIN & MARCUS, P.A.
P O BOX 1018
SOMERVILLE NJ 08876

In re application of:
Constantine N. Manis
Application No. 10/211759
Filed: August 02, 2002
For: **POWER LINE COMMUNICATION SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on June 16, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents with Customer Number (23526) in the request are withdrawn.

All future communications from the Office will continue to 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:

Mr. James Reeber
Arkados, Inc.
948 U.S. Highway #22 East
North Plainfield, New Jersey 07060

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

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
David W. Cunningham :
Application No. 10/211,769 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. 0SGH-089486 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 20, 2005 to withdraw the above-identified application from issue after payment of the issue fee. This is also a response to the paper styled " Notification of Loss of Entitlement to Small Entity Status..." filed September 20, 2005, which is being treated as a request under 37 CFR 1.27(g)(2) to remove status as a Small Entity.

It does not appear that the above-noted communications are signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Dana M. Gordon appearing on the correspondences 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. It is noted that Mr. Gordon also requests a change of correspondence address to the address given in the communications. At present, the correspondence address will not be changed. A courtesy copy of this decision is being mailed to petitioner. If Mr. Gordon desires to receive future correspondence regarding this application, then an appropriate power of attorney or authorization of agent must be submitted. All future correspondence will be directed solely to the address of record.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

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

[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).

In view of the request under 37 CFR 1.27(g)(2), status as a Small Entity has been removed.

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 2877 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DANA M. GORDON
FOLEY HOAG, LLP
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

In re Application of	:	
Kin K. Leung, et. al.	:	
Application No. 10/211,788	:	DECISION ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. 2001-0179	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before August 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 7, 2008. Accordingly, the date of abandonment of this application is August 8, 2008.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Gary H. Monka 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 in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision will be mailed to the address on the petition.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.

Brian Brown
Petitions Examiner
Office of Petitions

cc: Gary H. Monka
Canavan & Monka LLC
62 Grove Street
Somerville, NJ 08876

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Paper No. 9

Brian M. Hoffman
FENWICK & WEST L.L.P.
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JUN 18 2004

Technology Center 2100

In re Application of:
Carey S. Nachenberg
Application No. 10/211,827
Filed: August 2, 2002
For: HEURISTIC DETECTION OF COMPUTER VIRUSES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 03, 2004.

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

The request filed June 03, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Edward J. Radlo
SONNENSCHEIN NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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Paper No. 7

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SEP 1 0 2003

OFFICE OF PETITIONS

OLSON & HIERL, LTD.
36th Floor
20 North Wacker Drive
Chicago, IL 60606

In re Application of:
Ihor Wyslotsky, George Golota,
Roman Forowycz, John Repp and
Bohdan Wyslotsky
Application No. 10/211,829
Filed: August 20, 2002
Title of Invention: MODIFIED
ATMOSPHERE FOOD CONTAINER AND
METHOD

DECISION NOTING
JOINDER OF
INVENTOR

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a) filed September 4, 2003, noting the joinder of the inventor. The request for a five (5) month extension-of-time is hereby granted.

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

The Declaration/Power of Attorney has been entered and made of record.

This application is being forwarded to Technology Center Art Unit 1761 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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FEB 04 2003

OFFICE OF PETITIONS

OLSON & HIERL, LTD.
36th Floor
20 North Wacker Drive
Chicago, IL 60606

In re Application of:
Ihor Wyslotsky, George Golota, Roman Forowycz, John Repp and Bohdan Wyslotsky
Application No. 10/211,829
Filed: August 20, 2002
Title of Invention: MODIFIED ATMOSPHERE FOOD CONTAINER AND METHOD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed January 3, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. A two (2) month extension of time is requested and is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 20, 2002, without a fully executed oath or declaration. Accordingly, on September 5, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition and extension-of-time request. The petition provides that several letters were sent to Inventor Repp at his last known mailing address, in an attempt to contact him regarding joining in the application. On at least one occasion, inventor Repp received one of the letters, but has yet to contact Petitioner regarding joining the application.

Applicable Law:

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the

application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition lacks item (1).

As to item (1), the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. Emphasis supplied.

MPEP 409.03(d).

As required by the MPEP, Petitioner must present a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor, before refusal can be alleged. If the inventor has been presented with a copy of the invention (specification, claims and drawings), along with the declaration for signature, this fact must be presented in the petition.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Whelan et al.	:	
Application No. 10/211,841	:	DECISION ON PETITION
Filed: 08-02-2002	:	
Attorney Docket No. 10629-0033-999	:	

This is a decision on the petition filed December 22, 2006, to withdraw the holding of abandonment for the above-identified application.

On June 1, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period for reply. In the absence of a timely filed response, the application was held abandoned on July 2, 2006.

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

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Non-Compliant Amendment was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Non-Compliant Amendment was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice of Non-Compliant Amendment would have been entered had it been received and docketed. The practitioner and the dock manager attested to the fact that a search of the file jacket and docket records indicated that the Notice of Non-Compliant Amendment was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required. The Office acknowledges receipt of the amendment submitted with the present petition on December 22, 2006.

The matter is being referred to the Technology Center Art Unit 2616 for review of the amendment filed on December 22, 2006.

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

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Technology Center 2100

Paper No. 3

Megan M. Sugiyama
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

In re Application of:
Pitts et al.
Application No. 10/211,862
Filed: August 1, 2002
For: METHOD AND APPARATUS FOR PROCESSING A QUERY TO A MULTI-DIMENSIONAL DATA STRUCTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 5, 2004.

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

The request filed January 5, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Thomas W. Kintner, Esq.
ARZOON, INC.
2075 Pioneer Court
San Francisco, CA 94403

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/211,914	08/02/2002	2823	740	02-0376	1	18	3

CONFIRMATION NO. 9568

CORRECTED FILING RECEIPT

OC000000012691796

24319
LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS, CA 95035

Date Mailed: 05/17/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kishor Desai, Fremont, CA;
John P. McCormick, Palo Alto, CA;
Maniam Alagaratnam, Cupertino, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF FORMING ELECTROLYTIC CONTACT PADS INCLUDING LAYERS OF COPPER, NICKEL, AND GOLD

Preliminary Class
438

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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MAR 31 2004

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

In re Application of	:
Thomas A. Steitz et al	:
Serial No.: 10/211,931	: PETITION TO MAKE SPECIAL
Filed: August 2, 2002	:
Attorney Docket No.: RIB-005CP	:

This is in response to applicants' petition filed February 20, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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DAVID G. HENRY
900 WASHINGTON AVENUE
P.O. BOX 1470
WACO, TX 76701

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of Guerrina, Michael Application No. 10/211,932 Filed: August 2, 2002 Attorney Docket No. Ceramic Weld Insulator And Metal Weld Gear Combination For An Improved Micro Weld Head Component Of An Orbital Tube Welding Apparatus	: : : : :	ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 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 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 8, 2004. A Notice of Abandonment was mailed on January 20, 2005.

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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

Cc: MICHAEL GUERRINA
11202 GEORGIAN DRIVE, UNIT A
AUSTIN, TX 78753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/8/07

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction on Patent No.: 7166477

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.

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

Comments:
Wrong set of claims were printed with the patent!
* Certificate of correction is CORRECT and proper *

[signature] Louble 1641
SPE Art Unit

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,166,477
DATED : January 23, 2007
INVENTOR(S) : PRUSINER, STANLEY B., 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 column 32, lines 4-33, please make the amendments as shown:

1. A method of preparing a sample, comprising the steps of:

obtaining a sample of muscle tissue obtained from hind limb muscle of a mammal selected from the group consisting of a cow, a sheep and a deer;

homogenizing the sample thereby creating a homogenate;

contacting the homogenate with a complexing agent which binds PrP^{Sc} in the homogenate forming a complex comprising the complexing agent and the PrP^{Sc} with a higher specific gravity as compared to the specific gravity of ~~either~~ PrP^{Sc} ~~or the complexing agent~~ alone; and

concentrating the complex by the application of gravity.

2. The method of claim 1, wherein the muscle tissue is from muscle having a higher concentration of prions than other muscle for the species of mammal from which the sample is obtained.

3. The method of claim 2, wherein the sample is obtained from muscle having a higher concentration of prions as compared to any other muscle in the mammal from which the muscle is obtained.

4. The method of claim 1, wherein ~~the sample of muscle tissue is obtained from hind limb muscle of the mammal chosen from a cow, a sheep and a deer wherein~~ the concentration by gravity is enhanced by centrifugation ~~centriguation~~.

5. The method of claim 1, wherein the complexing agent is ~~chosen from~~ selected from the group consisting of a heteropoly acid and a salt thereof.

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231.
DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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(Also form PTO-1050)

6. (Original) The method of claim 5, wherein the complexing agent is sodium phosphotungstate.

7. (Currently Amended) The method of claim 1, further comprising:

treating the homogenate with a denaturant under conditions and for a period of time so as to denature PrP^{C} in the homogenate and so as to change the conformation of PrP^{Sc} in the homogenate in a manner so that an epitope is exposed on the denatured PrP^{Sc} in the changed conformation which epitope was not exposed prior to treating the PrP^{Sc}.

MAILING ADDRESS OF SENDER:

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303

PATENT NO. 7,166,477

No. of additional copies

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Notice of Allowability	Application No.	Applicant(s)	
	10/211,942	PRUSINER ET AL.	
	Examiner	Art Unit	
	Gailene R. Gabel	1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A ~~GRANT OF PATENT~~ RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *April 26, 2006 and submission of terminal disclaimer*.

2. ☒ The allowed claim(s) is/are *claims 1-7*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Claims attached should have been printed w/ Patent.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 1/30/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

AMENDMENTS TO THE CLAIMS:

1. (Currently Amended) A method of preparing a sample, comprising the steps of:

obtaining a sample of muscle tissue obtained from hind limb muscle of a mammal selected from the group consisting of a cow, a sheep and a deer;

homogenizing the sample thereby creating a homogenate;

contacting the homogenate with a complexing agent which binds PrP^{Sc} in the homogenate forming a complex comprising the complexing agent and the PrP^{Sc} with a higher specific gravity as compared to the specific gravity of ~~either~~ PrP^{Sc} ~~or the complexing agent~~ alone; and

concentrating the complex by the application of gravity.

2. (Original) The method of claim 1, wherein the muscle tissue is from muscle having a higher concentration of prions than other muscle for the species of mammal from which the sample is obtained.

3. (Original) The method of claim 2, wherein the sample is obtained from muscle having a higher concentration of prions as compared to any other muscle in the mammal from which the muscle is obtained.

4. (Currently Amended) The method of claim 1, wherein ~~the sample of muscle tissue is obtained from hind limb muscle of the mammal chosen from a cow, a sheep and a deer wherein~~ the concentration by gravity is enhanced by centrifugation ~~centriguation~~.

5. (Currently Amended) The method of claim 1, wherein the complexing agent is ~~chosen from~~ selected from the group consisting of a heteropoly acid and a salt thereof.

6. (Original) The method of claim 5, wherein the complexing agent is sodium phosphotungstate.

7. (Currently Amended) The method of claim 1, further comprising:

treating the homogenate with a denaturant under conditions and for a period of time so as to denature PrP^{C} in the homogenate and so as to change the conformation of PrP^{Sc} in the homogenate in a

manner so that an epitope is exposed on the denatured PrP^{Sc} in the changed conformation which epitope was not exposed prior to treating the PrP^{Sc}.

8. – 33. (Canceled)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of
Cynthia J. Brame
Application No. 10/211,945
Filed: August 2, 2002
Attorney Docket No. MDSP-P01-015

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(b) MOOT

This is in response to the petition under 37 CFR 1.47(b), filed February 10, 2003. Papers filed by facsimile transmission on February 26, 2003 included a declaration signed by previously nonsigning inventor Cynthia J. Brame in compliance with 37 CFR 1.63 and 1.64.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

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
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Paper No. 7

KNOBBE MARTENS OLSON & BEAR LLP
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IRVINE, CA 92614

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MAY 21 2003

OFFICE OF PETITIONS

In re Application of
Chen et al.
Application No.10/211,954
Filed: July 31, 2002
Attorney Docket No. TRANDIM.014A
Title of Invention: REMOTELY-COOPERATIVE SCHEDULING SOLUTION FOR MODERATING WIRELESS PROTOCOLS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed March 11, 2003 (certificate of mailing March 6, 2003) under 37 CFR. §1.47(a).

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

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

The above-identified application was filed on July 31, 2002, without an executed oath or declaration. Accordingly, on September 6, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of November 6, 2002.

In reply, applicant filed a petition, a statement of facts the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted. In support of the petition, applicants submitted statements from Kirk E. Pastorian, Jay Standiford, Jack Mott, and Michelle Wyatt.

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

As to item (1), rule 47 applicant has failed to show that co-inventor Ping Liang was ever presented with a copy of the application papers. 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). The declaration of Kirk E. Pastorian

states "a packet of information relating to the application entitled REMOTELY-COOPERATIVE SCHEDULING SOLUTION FOR MODERATING WIRELESS PROTOCOLS which contained the Declaration of Inventors, Assignment and Power of Attorney by Assignee". Neither the petition or any of the statements provided indicate application papers (specification, including claims, drawings, and oath or declaration) were sent to the non-signing inventor. Inventor Liang must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 9

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AUG 01 2003

OFFICE OF PETITIONS

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

In re Application of
Minghua Chen and Ping Liang
Application No.10/211,954
Filed: July 31, 2002
Attorney Docket Number: TRANDIM.014A
Title of Invention:
REMOTELY-COOPERATIVE SCHEDULING SOLUTION FOR MODERATING WIRELESS PROTOCOLS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 24, 2003 (certificate of mailing July 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. The petition attest a copy of the application was sent to non-signing inventor's last known address. Petitioner has provided evidence that the non-signing inventor received the application papers. The non-signing inventor's failure to respond to the application mailing 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.

Petitioner submitted a one month extension of time pursuant to 37 CFR 1.136(a). However, a review of the record shows petitioner's response was timely submitted pursuant to 37 CFR 1.8. Accordingly, deposit account 11-1410 is being credited with the $55.00 extension of time fee.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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www.uspto.gov

Ping Liang
18 Vienne
Irvine, CA 92606

In re Application of
Minghua Chen and Ping Liang
Application No. 10/188,309
Filed: July 31, 2002
Attorney Docket Number: TRANDIM.014A
Title of Invention:
REMOTELY-COOPERATIVE SCHEDULING SOLUTION FOR MODERATING WIRELESS PROTOCOLS

LETTER

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AUG 0 1 2003

OFFICE OF PETITIONS

Dear Mr. Liang:

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

MICHAEL H. TRENHOLM
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
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IRVINE, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 12

TOWNSEND AND TOWNSEND AND CREW, LLP
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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Waslowski et al.	:	
Application No. 10/211,957	:	ON PETITION
Filed: August 2, 2002	:	
Attorney Docket No. 089459-000000US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 19, 2004.

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

The file is being forwarded 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

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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BELLAIRE, TX 77402-2428

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Boyce Donald Burts III	:	
Application No. 10/211,959	:	DECISION GRANTING PETITION
Filed: August 1, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 23267/24	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 26, 2005,as required by the Notice of Allowance and Fee(s) Due, mailed January 26, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee and $300 publication fee; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

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NEW YORK NY 10023

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AUG 08 2005

OFFICE OF PETITIONS

In re Application of :
Ayala Barak :
Application No. 10/211,965 :
Filed: August 2, 2002 :
Attorney Docket Number: U :
014157-1 :
Title: CONTROL OF DEVELOPMENT :
OF BIOFILMS IN INDUSTRIAL :
PROCESS WATER :

DECISION ON PETITION UNDER
37 C.F.R. §1.183

Background

This is a decision on the petition filed May 2, 2005, pursuant to 37 C.F.R. §1.183, requesting that 37 C.F.R. §1.28(c) be waived so that Petitioner may receive the benefit of either having the undersigned set aside the implementation of Consolidated Appropriations Act, 2005, or construe the amendment of April 7, 2004 as present on filing. Petitioner improperly indicated on filing that the applicant was eligible to claim small entity status. By filing this petition, Petitioner wishes to avoid having to pay the deficiency for the original 241 claims at the current rate. Petitioner wishes to either - (1) pay the fees at the reduced rate that was in effect prior to December 8, 2004, or (2) have the Office treat the amendment of April 7, 2004 as present on filing, in effect treating these 241 claims as though they were never filed.

The application was filed on August 2, 2002, with 241 claims. On September 2, 2002, a Notice to File Missing Parts of Nonprovisional Application was sent to Petitioner, indicating, *inter alia*, that $3,753 was due for additional claim fees. On November 6, 2002, Petitioner submitted the $3,753.

On April 7, 2004, Petitioner submitted an amendment where he again indicated "the application is qualified as a small entity," cancelled claims 1-241, and added claims 242-318.

On December 8, 2004, the President signed the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act), for the remainder of Fiscal Year 2005 (H.R. 4818). The Consolidated Appropriations Act revises patent fees during the remainder of fiscal year 2005 and during fiscal year 2006. As a result of this Act, the fees associated with the filing of excess claims were raised.

In February of 2005, Petitioner learned that at no point had his client qualified for small entity status.

Petitioner maintains that this constitutes an extraordinary situation where justice requires the waiver of rule 37 C.F.R. §1.28 for two reasons; when 37 C.F.R. §1.28 was adopted, it contemplated nominal fee increases of just a few percent, therefore Applicant had no way of knowing that an erroneous assertion of small entity status could result in anything other than a nominal deficiency, and; the new excess claim rules were not adopted by the Office during a period of notice and comment rulemaking, but rather by an action of Congress.

Applicable Rule

37 C.F.R. § 1.28(c) sets forth, in toto:

Refunds when small entity status is later established; how errors in small entity status are excused.

(c) How errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) Separate submission required for each application or patent. Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency

payments (e.g., checks) and itemizations are required for each application or patent. See § 1.4(b).

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i) Calculation of the deficiency owed. The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii) Itemization of the deficiency payment. An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

37 C.F.R. §1.183 provides:

In an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).

Analysis

In order to submit a grantable petition under 37 CFR 1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has not shown that either condition exists in this case.

Petitioner has alleged that it is unjust to require him to seek relief under 37 C.F.R. §1.28(c) because the error which he is responsible for will be an expensive one to fix.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The erroneous assertion of small entity status could have been avoided through the exercise of routine diligence. This application was deposited on August 2, 2002. In late February, 2005, Petitioner spoke with his client, and learned that his client never qualified for small entity status, specifically because an agreement between the assignee (a small entity) and a third party (a large-entity) granted said third party rights to practice the claimed invention[1]. Prior to filing, had Petitioner inquired as to not only the size of his client, but also whether his client had entered into any licensing agreements for this technology which would effect his status as a small entity, his client would have been properly presented to the Office as having large entity status on filing. As such, the erroneous representation to the Office of small-entity status was a circumstance entirely within Petitioner's control, and the erroneous assertion, which resulted in the necessity to pay the deficient fees at the current rate, could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence[2].

Petitioner has correctly indicated that fee changes were not made as an internal PTO decision with the provision of a period for notice and comment, but rather by Congressional decree. Petitioner will note that legislation to raise patent fees (H.R. 1561) was introduced in Congress on April 2, 2003, some 20 months before the change was enacted into law. This period of 20 months should have given any interested member of the public sufficient notice that such a patent fee change was possible. As such, when the changes to the fee structure took effect on December 8, 2004, it should not have come as any surprise to those interested in the Congressionally-mandated fees the Office must charge. In summary, an Act of Congress does not constitute an extraordinary situation under 37 CFR 1.183.

Furthermore, since the USPTO did not cause or contribute to Petitioner's deficient submission, this case is even further

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1 Petition, paragraph 12, page 4.

2 U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

removed from consideration as one where "justice requires" equitable relief[3]. It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR §1.183[4]. Rather, as Petitioner failed to properly assert that his client held large entity status, this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

It follows that Petitioner's circumstances are not extraordinary, and justice fails to require waiver of rule 37 C.F.R. §1.28(c).

Conclusion

The petition is **DISMISSED**.

The Office will neither allow him to pay the deficiency at a rate which is no longer in effect, nor treat the amendment which cancelled claims 1-241 as present on filing.

Petitioner must file a petition under 37 C.F.R. §1.28(c), comply with the requirements set forth therein, and pay the proper amount that is owed to the Office at the current rate.

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. §1.183." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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3 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

4 See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule).

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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

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

---

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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

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

COPY MAILED

APR 0 8 2003

OFFICE OF PETITIONS

In re Application of
Minghua Chen and Ping Liang
Application No. 10/211,976
Filed: July 31, 2002
Attorney Docket No. TRANDIM.013A
Title: RECOGNITION SCHEME FOR MODERATING WIRELESS PROTOCOLS

DECISION REFUSING STATUS 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 31, 2002, identifying Minghua Chen and Ping Liang as joint inventors. On August 28, 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, a surcharge for its late filing, the filing fee, and additional claim fees. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), a declaration executed only by inventor Chen, the filing fee, and the fees for excess claims. To make timely this reply, a four-month extension of time was requested[2].

[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.

Petitioner has further included statements of facts from Jay Standiford (the Vice President of Engineering of the purported assignee), Jack Mott (the Chief Financial Officer of the purported assignee), and Michelle Wyatt (the Human Resource Manager of the purported assignee). Petitioner has also submitted an employment agreement, and a statement under 37 C.F.R. §3.73, although neither are required for a petition under section (a) of 37 C.F.R. §47.

Petitioner has met requirements (1) – (3) and (6) of 37 C.F.R. §1.47(a) above.

The statement of Mr. Standiford states that he made a plurality of attempts to contact the non-signing inventor, but only one attempt is given. The statement of Mr. Mott states the same, and lists no attempts to establish contact. The statement of Ms. Wyatt reveals that she called the inventor, and the statement of an attorney of record establishes that he sent a copy of the declaration, the assignment document, and the power of attorney, although it does not state where these papers were sent.

Regarding the fourth requirement above, the statement of the attorney of record establishes that a complete copy of the application papers was not sent to the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As only the declaration was sent, the fourth requirement has not been met. On renewed petition, it should be established that a complete copy of the application was sent to the last-known address of the non-signing inventor.

Regarding the fifth requirement above, 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[4].

For these reasons, the petition under 37 C.F.R. §1.47(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 1.47(a)."

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2 As this petition was not received until March 4, 2003, and as the petition failed to contain a certificate of mailing, a five-month extension of time was required. The deficiency has been charged to petitioner's Deposit Account, as authorized in the petition.

3 See MPEP 409.03(d).

4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

The reply to this letter may be submitted by mail[5, 6], hand-delivery[7], or facsimile[8].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

5 Commissioner for Patents, Box DAC, Washington, DC 20231.
6 **Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office will change to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.**
7 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
8 (703) 308-6916, Attn: 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

Ping Liang
18 Vienne
Irvine, CA 92606

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AUG 0 5 2003

OFFICE OF PETITIONS

In re Application of
Minghua Chen and Ping Liang
Application No. 10/211,976
Filed: July 31, 2002
Attorney Docket No. TRANDIM.013A
Title: RECOGNITION SCHEME FOR MODERATING WIRELESS PROTOCOLS

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

Dear Mr. Liang:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 05 2003
OFFICE OF PETITIONS

In re Application of
Minghua Chen and Ping Liang
Application No. 10/211,976
Filed: July 31, 2002
Attorney Docket No. TRANDIM.013A
Title: RECOGNITION SCHEME FOR MODERATING WIRELESS PROTOCOLS

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed July 28, 2003.

The above-identified application was filed on July 31, 2002, identifying Minghua Chen and Ping Liang as joint inventors. On August 28, 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, a surcharge for its late filing, the filing fee, and additional claim fees. This Notice set a two-month period for reply.

[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 original petition, filed on March 4, 2003, was dismissed for failure to establish both that a complete copy of the application had been forwarded to non-signing inventor Liang, and that he had refused to execute the declaration.

With the renewed petition, petitioner has corrected these deficiencies.

As such, the renewed petition under 37 C.F.R. §1.47(a) 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.

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

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

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

Express Mail Label No. Dated: _____

Docket No.: 02790/100J632-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Pascal J. Ricatto *et al.*

Application No.: 10/211,980

Filed: August 2, 2002

For: CHEMICAL PROCESSING USING NON-THERMAL DISCHARGE PLASMA

Allowed: August 16, 2004

Confirmation No.: 1407

Art Unit: 1754

Examiner: Maribel Medina

PETITION TO WITHDRAW APPLICATION FROM ISSUE PURSUANT TO 37 CFR 1.313(c)(2)

RECEIVED
NOV 1 2 2004
OFFICE OF PETITIONS

MS 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petitioner hereby petitions the Commissioner to withdraw the above-identified application from issue. The Issue Fee in this application was timely paid on October 4, 2004.

The Commissioner is authorized to charge the fee of $525.00 covering the fees set forth in 37 CFR 1.17(h) and 1.17(e) to Deposit Account No. 04-0100.

Petitioner respectfully petitions that the above-identified application be withdrawn from issue in order to permit consideration of a submission under 37 CFR 1.114 (Request for Continued Examination with an Information Disclosure Statement) a copy of which is enclosed.

11/12/2004 AKELLEY 00000020 040100 10211980
01 FC:1460 130.00 DA

The Commissioner is authorized to charge any deficiency due with this submission of up to $1000.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Dated: November 11, 2004

Respectfully submitted,

By

Jay P. Lessler
Registration No.: 41,151
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7765
(212) 753-6237 (Fax)
Attorneys/Agents For Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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NOV 12 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Pascal J. Ricatto, et al.
Application No. 10/211,980
Filed: August 2, 2002
Atty Docket No. 2790/1 J632-US1

This is a decision on the petition, filed November 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 4, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1754 for further processing of the request for continued examination under 37 CFR 1.114 filed November 12, 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

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

GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE TX 77402-2428

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DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Boyce Donald Burts, III	:	DECISION ON PETITION
Application No. 10/211,982	:	UNDER 37 CFR 1.137(b)
Filed: August 1, 2002	:	
Attorney Docket No. 23267/20	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 23, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed on February 22, 2005, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on July 27, 2005.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning 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
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GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE, TX 77402-2428

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AUG 0 1 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Burts, Boyce Donald III	:	
Application No. 10/211,984	:	
Filed: August 1, 2002	:	
Attorney Docket No. 23267/23	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1712 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

APR 2 6 2005

OFFICE OF PETITIONS

In re Application of
O'Connell
Application No. 10/212,008
Filed: August 2, 2002
Attorney Docket No. 53394.000567
For: Absorbent Garment With Integral Elastomeric Side Panels

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed November 17, 2003.

The petition is **granted**.

Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Considering all the facts and circumstances, the Office will construe statements by attorney Michael Phelps as the equivalent of an explicit statement that Phelps is authorized to sign the declaration on behalf of the corporation. The Office notes the only power of attorney document is the declaration. The declaration is signed by Phelps and gives Phelps and others a power of attorney. Petitioner may wish to file a power of attorney signed by an officer of the assignee to ensure confusion or problems do not arise in the future concerning power of attorney issues.

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

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

The file will now be forwarded to the Office of Petitions for further processing.

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

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

Paper No. 11

Susan O'Connell
240 C Avenue
Coronado, CA 92118

COPY MAILED

APR 2 6 2005

OFFICE OF PETITIONS

Letter

In re Application of
O'Connell
Application No. 10/212,008
Filed: August 2, 2002
Attorney Docket No. 53394.000567
For: Absorbent Garment With Integral Elastomeric Side Panels

Ms. O'Connell:

You are named as a the inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated as the inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

18 JUN 2[illegible]3

UNITED STATES PATENT and TRADEMARK OFFICE

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

DIANE L. GARDNER
Fish & Richardson P.C.
4350 LaJolla Village Drive, Suite 500
San Diego, California 92122

In re Application of	DECISION ON
Sankaram et al	
Application No.: 10/212,030	
PCT No.: PCT/KR00/01413	PETITION UNDER
Int. Filing Date: 02 June 2000	
Priority Date: 04 June 1999	37 CFR 1.137(b)
Attorney's Docket No.: 07333-050001	
For: OIL-CORE COMPOSITIONS FOR THE SUSTAINED RELEASE OF HYDROPHOBIC DRUG	

This decision is in response to applicants' "Request For Revival Of Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed on 05 August 2002.

Applicants' petition under 37 CFR 1.137(b) filed 05 August 2002 to revive international application PCT/US00/15401 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/US00/15401 became abandoned as to the United States of America at midnight on 04 December 2001 for failure to pay the basic national fee.

The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c), page 700-85). International application PCT/US00/15401 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/212,030.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 2 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Fukui et al.	:	
Application No. 10/212,039	:	DECISION ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. Q70215	:	

This is a decision on the petition under 37 CFR 1.181, filed December 7, 2006, to withdraw the holding of abandonment for the above-identified application.

On May 2, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. On November 2, 2006, petitioners submitted a reply accompanied by a request for an extension of time for response within the third month pursuant to the provisions of 37 CFR 1.136(a). On November 21, 2006, the Examiner mailed an Advisory Action, stating that the reply failed to place the application in condition for allowance. Accordingly, the application became abandoned on November 3, 2006. The present petition preceded the mailing of a Notice of Abandonment.

In the present petition, petitioners requested that the Office withdraw the holding of abandonment in the above-identified application. Petitioners asserted that they filed a proper and timely reply on November 2, 2006 via the Electronic Filing System – Web (EFS-Web), which included a Request for Continued Examination (RCE) transmittal paper, the required fee under 37 CFR 1.17(e), an Amendment under 37 CFR 1.114(c), a request for an extension of time for response within the third month (and fee), and a Rule 132 Declaration (unexecuted). However, petitioners explained that the wrong RCE transmittal paper was inadvertently uploaded due to a clerical error when the reply was filed via EFS-Web.

Specifically, petitioners stated:

> However, it is respectfully submitted that even though the wrong RCE transmittal paper was inadvertently uploaded via EFS, the timely submission of the Amendment filed under 37 C.F.R. § 1.114(c), the RCE fee submitted in accordance with 37 C.F.R. § 1.17(e) and the Petition for Extension of Time with the required fee, were sufficient for the finality of the previous Action dated May 2, 2006 to be withdrawn in accordance with the provisions of 37 C.F.R. § 1.114(d), which states:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.

The Amendment filed November 2, 2006 constitutes a submission, and the fee set forth in § 1.17(e) was paid, so the Office should withdraw the finality and the submission should be entered and considered.

Petition dated 12/07/06, pp. 3-4.

After reviewing the record and the documents submitted on petition, it is clear that petitioners were requesting continued examination of the application on November 2, 2006. Furthermore, petitioners filed a submission and the fee set forth in § 1.17(e) as required by 37 CFR 1.114. Therefore, the petition to withdraw the holding of abandonment is **granted**.

The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status in view of the fact that a timely and proper reply was filed and received on November 2, 2006.

This matter is being referred to the Technology Center Art Unit 1752 for a review of the reply submitted on November 2, 2006.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PET DEC

UNITED STATES 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 - 3 2004

10/212,061

DECISION ON PETITION
FILED AUGUST 16 2004

This application is before the Office of the Director, TC 1700, for consideration of the **PETITION TO ACCEPT PHOTOGRAPHS PURSUANT TO 37 C.F.R. SECTION 1.83** filed August 06, 2002. The petition is proper for consideration under 37 CFR 1.84(b)(1).

The petition is accompanied by the requisite three sets of the photographs mounted on Bristol board and a check to cover the fee pursuant to 37 CFR 1.17 (h).

The petition is **GRANTED.**

DEC - 3 2004

James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700

James A. LaBarre
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

PET DEC

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

DEC - 3 2004

10/212,061

DECISION ON PETITION
FILED AUGUST 16 2004

This application is before the Office of the Director, TC 1700, for consideration of the **PETITION TO ACCEPT PHOTOGRAPHS PURSUANT TO 37 C.F.R. SECTION 1.83** filed August 06, 2002. The petition is proper for consideration under 37 CFR 1.84(b)(1).

The petition is accompanied by the requisite three sets of the photographs mounted on Bristol board and a check to cover the fee pursuant to 37 CFR 1.17 (h).

The petition is **GRANTED.**

DEC - 3 2004

James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700

James A. LaBarre
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

#7
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DEC 31 2003

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DEC 31 2003

OFFICE OF THE DIRECTOR
TC 3600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of Naoki Yukawa et al. Application No. 10/212,114 Filed: August 6, 2002 For: NOISE DAMPER FOR PNEUMATIC TIRE	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 14, 2003.

The petition is **GRANTED**.

A review of the file record indicates that applicant's *original* response to the outstanding office action mailed December 3, 2002 was in fact received. Applicant's response was received in the office on May 5, 2003.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status, and forward the application to the examiner for appropriate action.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 12/22/03

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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AUG 1 0 2007

OFFICE OF PETITIONS

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

In re Application of :
Mehdi Maghsoodnia, et al. :
Application No. 10/212,129 : ON PETITION
Filed: July 31, 2002 :
Attorney Docket No. 021410-000100US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed August 24, 2006. On April 17, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2151 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 1 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,809,264 :
Issue Date: October 26, 2004 :
Application No. 10/212,147 : ON PETITION
Filed: August 6, 2002 :
Attorney Docket No. 021021 :

This is a decision on the petition filed December 29, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

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

[1]See Official Gazette of June 22, 2004

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

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JAN 12 2005
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS

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JAN 11 2005
OFFICE OF PETITIONS

In re Patent No. 6,809,264
Issue Date: October 26, 2004
Application No. 10/212,147
Filed: August 6, 2002
Attorney Docket No. 021021

ON PETITION

This is a decision on the petition filed December 29, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

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

[1]See Official Gazette of June 22, 2004

DOCKETED for NE
DATE 1/13/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/24/09

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10212149 Patent No.: 6756033

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

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

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.

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

Comments: _____

/Johann R. Richter/
SPE 1616

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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OFFICE OF PETITIONS

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

In re Application of Gavnoudias, et al. Application No. 10/212,190 Filed: August 2, 2002 Docket No.: 9824-0134-999 For: CONFIGURABLE TERMINAL ENGINE	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 29, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Avi Silverberg 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
P.O. Box 1450
Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
John F. Corson, et. al.
Application No. 10/212,191
Filed: July 31, 2002
Attorney Docket No. 10020670-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on November 16, 2006, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application is being revived for consideration of the RCE filed on November 16, 2006.

This application file is being referred to Technology Center Art Unit 1631.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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dw 03-04

Paper No. 6

RHEOX, INC.
WYCKOFFS MILL ROAD
P O BOX 700
HIGHTSTOWN NJ 08520

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
McAulay et al.	:	
Application No. 10/212,196	:	ON PETITION
Filed: 5 August, 2002	:	
Attorney Docket Mo. EL-8191	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 2 March, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 19 November, 2003, for failure to timely file a reply to the Notice to File Corrected Application Papers mailed on 18 September, 2002, which set a two

---

[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)).

(2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 February, 2004.

The present petition is accompanied by an amendment to the specification, and drawings.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RHEOX, INC.
WYCKOFFS MILL ROAD
P O BOX 700
HIGHTSTOWN, NJ 08520

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MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
McAulay et al.	:	
Application No. 10/212,196	:	ON PETITION
Filed: August 5, 2002	:	
Attorney Docket No. EL-8191	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed July 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 23, 2004. A Notice of Abandonment was mailed January 31, 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 Technology Center 1700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 09-02

Paper No. 3

ROBERT H. CHEN
C/O BAKER & MCKENZIE
29TH FLOOR
805 THIRD AVENUE
NEW YORK NY 10022

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SEP 19 2002
OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	
Application No. 10/212,197	:	LETTER
Filed: 1 August, 2002	:	
Atty. Dckt. No. 87155275-002002	:	

This communication is in response to the paper styled "Petition for Original Filing Date of May 30, 2002" filed on 27 August, 2002, requesting that the above-identified application be accorded a filing date of 30 May, 2002, rather than the currently-accorded filing date of 1 August, 2002.

A request to change the filing date of an application must be made by way of a petition under 37 CFR 1.53 accompanied by the petition fee set forth in 37 CFR 1.17(h) (currently $130.00).[1] Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted.

Additionally, it is noted that applicant has provided no evidence (e.g. an itemized postcard receipt bearing an "Office date" stamp) supporting applicant's assertion that the present nonprovisional application was filed on 30 May, 2002.

---

[1] MPEP 506.02 and 37 CFR 1.53(e).

[2] 37 CFR 1.22(a).

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

The application is being forwarded to Technology Center 2600 for examination in due course with the currently accorded filing date of 1 August, 2002.

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

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

OCT 25 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#4

DITTHAVONG & CARLSON, P.C.
10507 BRADDOCK ROAD
SUITE A
FAIRFAX, VA 22032

In re Application of	:	
Archie R. Donaldson	:	DECISION ON PETITION
Serial No.: 10/212,213	:	
Filed: August 6, 2002	:	
For: Anti-Osteoarthritis and Anti-Hypothermia:		
Garment and Device	:	

This is in response to applicants' petition filed October 1, 2002 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
RICHARD E. HUBER
Application No. 10/212,240
Filed: 08/06/2002
Attorney Docket No. 2414-26

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2007, to withdraw the holding of abandonment in the above-identified application.

On February 28, 2007, the Board of Patent Appeals and Interferences rendered a decision, sustaining the rejection of the claims and entering new grounds of rejection under 37 CFR 41.50. Applicant had two months from the date of the decision of the Board to take appropriate action. On May 14, 2007, the Office mailed a Notice of Abandonment, indicating that the above-identified application was abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on February 28, 2007, and because the period for seeking court review of the decision had expired and there were no allowed claims.

In the present petition, applicant asserted that the Notice of Abandonment erroneously stated that the period for seeking court review of the decision had expired. Specifically, applicant stated:

> Following the Decision by the Board of Appeals and within the two month response period, the undersigned filed an Amendment (postcard receipt attached) on Monday, April 30, 2007 (April 28 = Saturday), adopting the Examiner's determination of allowable subject matter by amending claim 1 so as to incorporate the allowable limitations of dependent claim 7 and amending claim 14 to adopt the allowable limitations of dependent claim 18, so claims 1, 14 and the claims dependent thereon should all have been allowed and the Examiner should not have issued a Notice of Abandonment.

Petition, p. 1-2. Therefore, applicant requested that the Office withdraw the Notice of Abandonment because applicant filed a timely and proper reply in the form of an amendment on Monday, April 30, 2007, with the two-month time period.

A review of the record reveals that the Office received the amendment of April 30, 2007. The Examiner has determined that the amendment filed on Monday, April 30, 2007, after the decision by the Board of Patent Appeals and Interferences places the application in condition for allowance, and thus, will be entered. Accordingly, the Notice of Abandonment was mailed in error. The petition to withdraw the holding of abandonment is **granted**. The application is restored to pending status in view of the fact applicant filed a timely and proper reply on Monday, April 30, 2007.

This matter is being referred to Technology Center Art Unit 2622 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2007.

Telephone 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OCT 01 2007

OFFICE OF PETITIONS

In re Patent No. 7,079,184	:	DECISION ON
Toshikazu Yanai	:	PATENT TERM ADJUSTMENT
Issue Date: July 18, 2006	:	AND NOTICE OF INTENT
Application No. 10/212,257	:	TO ISSUE
Filed: August 6, 2002	:	CERTIFICATE OF
Attorney Docket No. 03500.016608	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed September 18, 2006. Patentee requests that the patent term adjustment indicated on the patent be corrected from seven hundred sixty-seven (767) days to eight hundred fifty-one (851) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eight hundred fifty-one (851)** days.

On July 18, 2006, the above-identified application matured into U.S. Patent No. 7,079,184. The instant request for reconsideration filed September 18, 2006 was timely filed within two months of the date the patent issued. The Patent issued with a Patent Term Adjustment of seven hundred sixty-seven (767) days. Patentee states that he should not have been assessed applicant delay of eighty-four (84) days for the submission of a drawing figure after the mailing of the Notice of Allowance, because the drawing was a duplicate submission of a figure previously filed.

Under the circumstances of this case, it is concluded that the filing of applicant's drawing is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicant previously submitted the drawing on March 15, 2006. However, the Notice of Allowance mailed on March 29, 2006, did not acknowledge the drawing. As such, applicant filed the drawing figure again on April 26, 2006. Accordingly, the assessment of eighty-four (84) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **eight hundred fifty-one (851)** days (851 days of PTO delay and 0 days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **eight hundred fifty-one (851)** days subject to any disclaimers.

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

Kery A Fries
for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

Day : Sunday
Date: 9/30/2007

PALM INTRANET

Time: 09:55:25

PTA Calculations for Application: 10/212257

Application Filing Date:	08/06/2002	PTO Delay (PTO):	851
Issue Date of Patent:	07/18/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	84
Post-Issue Petitions:	0	Total PTA (days):	851
PTO Delay Adjustment:	84		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	09/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	84		
35.5	06/28/2006	PTA 36 MONTHS			
35	07/18/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
34	06/12/2006	EXPORT TO FINAL DATA CAPTURE			
33	06/07/2006	FINISHED INITIAL DATA CAPTURE			
32	06/09/2006	DISPATCH TO FDC			
31	05/02/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
30	04/26/2006	WORKFLOW - DRAWINGS FINISHED		84	
29	04/26/2006	ISSUE FEE PAYMENT VERIFIED			
28	04/26/2006	ISSUE FEE PAYMENT RECEIVED			
27	03/31/2006	EXPORT TO INITIAL DATA CAPTURE			
26	03/29/2006	MAIL NOTICE OF ALLOWANCE			
25	03/29/2006	MAIL FORMAL DRAWINGS REQUIRED			
24	03/29/2006	MAIL EXAMINER'S AMENDMENT			
23	03/15/2006	MISCELLANEOUS INCOMING LETTER			
22	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/20/2006	ISSUE REVISION COMPLETED			
20	03/20/2006	EXAMINER'S AMENDMENT COMMUNICATION			
19	03/20/2006	FORMAL DRAWINGS REQUIRED			
18	03/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
17	03/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/20/2006	NOTICE OF ALLOWABILITY			
15	10/16/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

14	03/08/2006	DATE FORWARDED TO EXAMINER			
13	02/28/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
12	02/03/2006	MAIL RESTRICTION REQUIREMENT	851		-1
10	02/01/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
9	07/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	10/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	11/25/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
5	11/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	09/04/2002	APPLICATION DISPATCHED FROM OIPE			
3	08/30/2002	APPLICATION IS NOW COMPLETE			
2	08/19/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/06/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,079,184 B2

DATED : July 18, 2006

INVENTOR(S) : Toshikazu Yanai

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 (767) days

Delete the phrase "by 767 days" and insert – by 851 days—

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Harris Zimmerman
Suite 710
1330 Broadway
Oakland, CA 94612-2506

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FEB 02 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Robert Tierra	:	
Application No. 10/212,285	:	ON PETITION
Filed: August 1, 2002	:	
Attorney Docket No. 4264	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed March 11, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 11, 2004.

In response, petitioner submitted with the instant petition $685 for the petition to revive fee, and an Election.

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

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1651, for further review of the Election 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

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OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Lemmons	:	
Application No. 10/212,289	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. 577172000100	:	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 14, 2006 and the renewed withdrawal dated January 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of	:	
Thomas Lemmons	:	
Application No. 10/212,289	:	DECISION ON PETITION
Filed: August 2, 2002	:	TO WITHDRAW
Attorney Docket No. INTE.36USU1 (ITC56)	:	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 14, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to OPTV/MOFO C/O Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/27/09

Paper No.: _____

TO SPE OF : ART UNIT 2421

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/212289 Patent No. 7444659B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Hunter B. Lonsberry
primary Examiner **SPE**

2421
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Art Unit 2421

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Donald R. Holland
Harness, Dickey & Pierce, P.L.C
7700 Bonhomme, Suite 400
St. Louis MO 63105

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of	:
Guang Wei Lu	: DECISION ON PETITION
Application No. 10/212,308	: and
Filed: August 5, 2002	: NOTICE OF NONACCEPTANCE OF
Atty Docket No.6794S-000009/US	: POWER OF ATTORNEY AND
	: CHANGE OF CORRESPONDENCE ADDRESS

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINENTIONALLY UNDER 37 CFR 1.137(b) filed November 15, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed June 13, 2005. A courtesy Notice of Abandonment was mailed on February 1, 2006.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The petition also includes a fee of $2,160 for extension for response within the fifth month. The maximum period for extension for response to the Notice ended on December 13, 2005. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee for such extension is being refunded to Deposit Account NO. 19-1025, as authorized.

Accompanying the petition was a Power of Attorney and Correspondence Address Indication Form signed by the Senior

Corporate Counsel stating that the corporation is the assignee of the entire interest and requesting that the attorney and address for this application be associated with customer number 26648. The form stated that a 3.73(b) statement was also enclosed. However, no 3.73(b) statement is among the papers present in the application. Accordingly, the request is ineffective to change the attorney and the correspondence address of record. A 3.73(b) statement is required for the assignee to take such action. A courtesy copy of this decision is being mailed to the address on the petition. However, all future correspondence will be mailed to the correspondence address currently of record until such time as a proper change of correspondence address is filed and made of record.

Technology Center AU 1615 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed November 15, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Patricia Fitzsimmons
Pharmacia Corporation of Pfizer Inc.
P.O. Box 1027
St. Louis MO 63006

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

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OFFICE OF PETITIONS

In re Application of	:	
Guang Wei Lu	:	
Application No. 10/212308	:	ON PETITION
Filing or 371(c) Date: 08/05/2002	:	
Attorney Docket Number: PC 31310A	:	

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 December 21, 2007. The delay in treating this petition is regretted.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 17, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on October 4, 2007. A Notice of Abandonment was mailed November 30, 2007.

The instant petition

Applicant files the instant petition and as a reply alleges that a Continuation (CON) application was filed; however, Office records do not indicate that a continuing application of the above-identified application has been filed. Accordingly, the petition is not grantable at this time.

The petition is dismissed without prejudice, Applicant may file a request for reconsideration of petition and include the necessary information (Application No., filing date) of the CON application.

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

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 this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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In re Application of	:	
Guang Wei Lu	:	
Application No. 10/212308	:	ON PETITION
Filing or 371(c) Date: 08/05/2002	:	
Attorney Docket Number: PC 31310A	:	

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 December 21, 2007. The delay in treating this petition is regretted.

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 17, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on October 4, 2007. A Notice of Abandonment was mailed November 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation application No. 11/962,903, filed December 21, 2007[1].

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

[1] A Decision granting priority to application no. 11/962,903 as a continuation of the present application was mailed on December 19, 2008.

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 04/21/2010

Applicant	: David B. Cousins	: DECISION ON REQUEST FOR
Patent Number	: 7574597	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/212,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1988** 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DANIEL M. CISLO, ESQ.
CISLO & THOMAS LLP
SUITE 900
233 WILSHIRE BOULEVARD
SANTA MONICA, CA 90401-1211

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OFFICE OF PETITIONS

In re Application of	:	
Joshua Corb, et al.	:	
Application No. 10/212,330	:	DECISION ON PETITION
Filed: August 5, 2002	:	TO WITHDRAW
Attorney Docket No. 05-15223	:	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 10, 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 the petitioner was not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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 undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: INTERMETRO COMMUNICATIONS, INC.
2685 PARK CENTER DRIVE
BUILDING A
SIMI VALLEY, CA 93065

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102-3702

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OFFICE OF PETITIONS

In re Patent No. 6,828,425 :
Application No. 10/212,355 :
Filed: August 02, 2002 : NOTICE UNDER 37 CFR. 1.28(c)
Attorney Docket No. **99-81D1** :
:

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On December 08, 2008, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 4

Warren A. Sklar
Renner, Otto, Boisselle & Sklar, LLP
19th Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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JAN 13 2003

OFFICE OF PETITIONS

In re Application of
Westphal et al.
Application No. 10/212,364
Filed: August 5, 2002
Attorney Docket No. UNIVP109USA

DECISION DISMISSING PETITION

This is a decision on the petition filed November 18, 2002 (Certificate of Mailing Date of November 12, 2002), requesting entry of Figures 21 and 22 submitted on November 18, 2002.

The petition is **dismissed**.

On August 5, 2002, the application was deposited.

On September 10, 2002, the Office of Initial Patent Examination mailed a Notice stating in part that Figures 21 and 22 were missing.

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

It is noted that the first sentence of the application's specification states, "Applicant's claim the benefit of U.S. Provisional Application No. 60/310,082 filed August 7, 2001, the entire disclosure of which is hereby incorporated by reference." MPEP 201.06(c) states that:

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

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

The pages containing Figures 21 and 22 submitted with the petition will <u>not</u> be entered. Should petitioner wish for the pages to be entered, an amendment must be filed.

The Application is being returned to the Office of Initial Patent Examination for consideration of petitioner's response to the September 10, 2002 Notice of Missing Parts.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

In re Application of
BABKA ET AL.
Appl. No.: 10/212,399
Filed: August 05, 2002
For: **METHOD AND SYSTEM FOR PRESENTING A VIDEO CALL MANAGEMENT CONSOLE**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed February 4, 2005 and supplemented on April 13, 2005, to expunge information from the above identified application.

The petition is **Granted**.

Petitioner requests that the Information Disclosure Statement Under 37 CFR 1.97, filed January 28, 2005, 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.

There was a question as to the adequacy of the certification statement. Therefore, applicants filed an RCE with a submission replacement of the IDS.

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 official file.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

OIPE JC106
OCT 0 8 2002
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ROBERT J. JACOBSON, P.A.
650 BRIMHALL STREET SOUTH
ST PAUL , MN 55116-1511

In re Application of
Yorimichi Dairoku et al.
Application No. 09/093,476
Filed: June 9, 1998
Attorney's Docket No. 98021

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed on May 8, 2000 (certificate of mailing May 3, 2000), requesting that the above-identified application be accorded a filing date of June 9, 1998, rather than the presently accorded filing date of June 10, 1998.

Petitioner alleges that the application was deposited in Express Mail service on June 9, 1998. In support, petitioner provided (a) a "true copy" of an "Express Mail Post Office to Addressee" mailing label bearing a "date-in" of June 9, 1998 and tracking number EI484087897US: the same Express Mail number placed on first page of the New Application Transmittal dated June 9, 1998, the first page of the specification, the first page of the drawings, and the fee; (b) copies of the first page of the New Application Transmittal dated June 9, 1998, the first page of the specification, the first page of the drawings, and the fee; (c) a copy of a Request for Corrected Filing Receipt dated July 3, 1998; (d) a U.S. Postal Service receipt dated June 9, 1998; and (e) a copy of the filing receipt for petitioner's Request for Corrected Filing Receipt, stamped as received by the USPTO on July 7, 1999.

In view of the above, the petition is **GRANTED**. The $130.00 petition fee submitted with the instant petition is unnecessary and will be refunded to Deposit Account #10-0207 as per Petitioner's authorization of June 9, 1998.

The application file is being forwarded to the Files Repository.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Nelson B. Snyder III at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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In re Application of	:	
VanderHill, et al.	:	
Application No. 10/212,441	:	DECISION
Filing Date: 5 August, 2002	:	
Attorney Docket No.: 4121-021103	:	

This is a decision on the petition filed on 13 May, 2005, under 37 C.F.R. §1.47, and considered more appropriately as a petition under 37 C.F.R. §1.183, to waive provisions of 37 C.F.R. §1.131.

For the reasons set forth below, the petition:

- as considered under 37 C.F.R. §1.183 to waive provisions of 37 C.F.R. §1.131 is **GRANTED**; and
- under 37 C.F.R. §1.47 is **DISMISSED**.

BACKGROUND

Petitioner alleges that one of the two named inventors, Joe Bellasperanza (Mr. Bellasperanza), has refused to sign the declaration under 37 C.F.R. §1.131; and seeks acceptance of the declaration with the signature of only the remaining inventor, Todd Vander Hill (Mr. Vander Hill), with relief under the provisions of 37 C.F.R. §1.47, rather than appropriately applying the

provisions of 37 C.F.R. §1.131 for consideration by the Examiner and/or seeking a waiver under 37 C.F.R. §1.183.[1]

Petitioner John W. McIlvaine (Reg. No. 34,219) makes a representation that he diligently has:

- sought to contact Mr. Bellasperanza;
- identified Mr. Bellasperanza's current residential mailing address;
- written to Mr. Bellasperanza and presented him with the declaration under 37 C.F.R. §1.131, with a request that Mr. Bellasperanza review and sign the declaration;
- received no response from Mr. Bellasperanza and/or that Mr. Bellasperanza otherwise has failed to sign the declaration.

Petitioner has represented that such action is necessary to prevent irreparable damage.

ANALYSIS

Having failed to file a fully executed declaration under 37 C.F.R. §1.131, Petitioner seeks relief under 37 C.F.R. §1.47. However, while a showing approximating that of under 37 C.F.R. §1.47 is in line with the proper application of under 37 C.F.R. §1.131, the provisions of 37 C.F.R. §1.47 are not applicable in this manner.

Petitioner has authorized charges of required fees under 37 C.F.R. §1.17 to Deposit Account 23-0650, and the petition fee ($400.00) is thus charged.

Petitioner represents that he has made a diligent effort to contact Mr. Bellasperanza and have him join in the declaration under 37 C.F.R. §1.131, but that Mr. Bellasperanza has failed to do so and that this failure (and so creates an "extraordinary situation" as foreseen under 37 C.F.R. §1.183 requiring the invocation of the interests of justice).

To the extent that such waiver under 37 C.F.R. §1.183 is required so that the Examiner may now consider the declaration under 37 C.F.R. §1.131 as submitted, the petition is **granted** to permit such consideration.

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[1] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

In all other respects the petition is **dismissed**, and in particular the petition under 37 C.F.R. §1.47 is **dismissed as moot**.

This file is released to Technology Center 2100 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

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

Welsh & Katz, Ltd.
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

MAILED

MAR 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 6

In re application of
Bruce E. Thomas et al.
Application No. 10/212,465
Filed: August 5, 2002
For: DOOR WITH VARIABLE LENGTH SCREEN

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 24, 2002 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 October 24, 2002 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 3/21/03

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Paper No. 6

HAYNES BEFFEL & WOLFELD
P.O. BOX 366
HALF MOON BAY, CA 94019

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NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Eric L. Buehlmann et al	:	
Application No. 10/212,467	:	ON PETITION
Filed: August 5, 2002	:	
Attorney Docket No. ARTM 1011-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 6, 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 7, 2002.

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
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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O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH, CA 92660

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NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Eric L. Buehlmann et al	:
Application No. 10/212,467	: DECISION GRANTING PETITION
Filed: August 5, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 032,290-053	:

This is a decision on the petition, filed November 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 19, 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 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement, both of which were filed on September 23, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Kwan-Yue Jen	: DECISION ON REQUEST FOR
Patent Number	: 7601849	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/212,473	: 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 **815** 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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 05/17/2010

Applicant : Kwan-Yue Jen
Patent Number : 7601849
Issue Date : 10/13/2009
Application No : 10/212,473
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 **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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MAILED Paper No. 4

MAR 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Mathew R. P. Perrone, Jr.
210 South Main Street
Algonquin IL 60102

In re Application of:
Jerome L. Oldani
Application No. 10/212,504
Filed: August 5, 2002
For: **SECURITY SYSTEM WITH REMOTE ACCESS AND CONTROL**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed January 22, 2003, under Manual of Patent Examination Procedure §708.02, II: Infringement.

A grantable petition under Manual of Patent Examination Procedure §708.02, II, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Petitioner fails to meet requirements (b) and (c) 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
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 6

MATHEW R. P. PERRONE, JR.
210 SOUTH MAIN STREET
ALGONQUIN, IL 60102

In re Application of:
Oldani et al.
Application No. 10/212,504
Filed: August 5, 2002
For: SECURITY SYSTEM WITH REMOTE ACCESS AND CONTROL

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition filed May 16, 2003 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The Petitioner does not meet the second (2) requirement. Specifically, Petitioner states that there is a "clear **possibility** that the claims of the instant application will be infringed" (emphasis added) as opposed to the required statement that "some of the claims are **unquestionably** infringed" (emphasis added). Accordingly, the petition is **DENIED**.

The application is being forwarded to the Technology Center's central files to await action in its normal turn.

Allen MacDonald

Allen R. MacDonald
Special Program Examiner
Technology Center 2600
(703) 305-4710

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,949,598	2005-09-27	10/212,505	2002-08-05	P30209

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	/Arnold Turk/	Date (YYYY-MM-DD)	2010-04-06
Name	Arnold Turk	Registration Number	33094

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6949598
Issue Date: September 27,2005
Application No. 10212505
Filed: August 5,2002
Attorney Docket No. 050220-1151

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

This is a decision on the electronic petition, filed April 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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OFFICE OF PETITIONS

DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

Applicant: Beswick et al.
Appl. No.: 10/212,513
Filing Date: August 5, 2002
Title: 2,3-DIARYL-PYRAZOLO[1,5-B]PYRIDAZINES DERIVATIVES, THEIR PREPARATION AND THEIR USE AS CYCLOOXYGENASE 2 (COX-2) INHIBITORS
Attorney Docket No.: PG3351US2
Pub. No.: US 2003/0040517 A1
Pub. Date: February 27, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 27, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title, wherein "Inhibitors"is misprinted as "Inhibirors", which is a mistake.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies a minor typographical error in the title of the invention, wherein "Inhibitors"is misprinted as "Inhibirors", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled in the abstract and throughout the specification. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b).

The misspelling is a minor typographical error, which is clearly understandable from reading the specification and claims in which the term is used, as words are not read in a vacuum. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the 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] 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).

§ 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 1624 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

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:
Mark B. Rosenbluth et al	:
Application No. 10/212,548	: DECISION GRANTING PETITION
Filed: August 5, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10559-693001	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 20, 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 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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---

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

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ELSA KELLER
INTELLECTUAL PROPERTY DEPARTMENT
SIEMENS CORPORATION
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Samuel I. BRANDT et al.	:	
Application No. 10/212,556	:	DECISION ON PETITION
Filed: August 05, 2002	:	
Attorney Docket No. 2001P16223 US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 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, July 24, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 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 $1620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 24, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4231.

The application file is being referred to Technology Center AU 2176 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **ALEXANDER BURKE**
SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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United States Patent and Trademark Office
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Elsa Keller
Intellectual Property Department
Siemens Corporation
186 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/26/2010

Applicant	: Samuel I. Brandt	: DECISION ON REQUEST FOR
Patent Number	: 7653873	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/212,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2152** 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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Hampton, VA 23681

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OFFICE OF PETITIONS

In re Application of
Eric I. Madaras et al
Application No. 10/212,563
Filed: August 1, 2002
Attorney Docket No. LAR-16262-1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.182, filed May 4, 2004, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/433,622, as set forth in the concurrently filed amendment.[1]

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 pending nonprovisional application was filed on August 1, 2002, within twelve months of the filing date of prior-filed provisional Application No. 60/433,622, which was filed on April 24, 2004, and for which a claim for the benefit of priority is claimed. A reference to the

[1] The appropriate avenue for acceptance of an unintentionally delayed provisional priority claim is by way of a petition under 37 CFR 1.78(a)(6), not 37 CFR 1.182. Additionally, the fee therefor is $1,330 rather than $130. As authorized, petitioner's deposit account will be deducted $1,200 for the balance due for the instant petition.

above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the above-noted, prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/433,622 is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2856 for appropriate action on the amendment submitted May 4, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/433,622.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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#10

Roland K. Bowler II
Motorola, Inc.
Intellectual Property Dept. (RKB)
600 North US Highway 45, AN475
Libertyville, IL 60048

In re Application of
Yilin Zhao et al.
Application No. 10/212,617
Filed: August 5, 2002
For: METHOD AND APPARATUS FOR COMPRESSING GPS SATELLITE BROADCAST MESSAGE INFORMATION

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 July 1, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on June 5, 2003, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/js: 5/25/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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OFFICE OF PETITIONS

In re Application of
Lee A. **Larson** et al.
Application No. 10/212,622
Filed: 8/5/02
Attorney Docket No. TI-34936

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed December 22, 2004. Accordingly, the date of abandonment of this application is March 23, 2005.

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 $1400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Phyllis Spivack at 571-272-6052 or in her absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

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In re Application of	:	
Canino, Thomas L.	:	
Application No. 10/212,637	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 7105.02.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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FLYNN THIEL BOUTELL & TANIS PC
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KALAMAZOO, MI 49008-1699

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OFFICE OF PETITIONS

In re Application of	:	
Robert L. Hoffman et al	:	
Application No. 10/212,664	:	DECISION GRANTING PETITION
Filed: August 5, 2002	:	UNDER 37 CFR 1.137(b)
Atty Dkt No. Pharmacia C-00465	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2005. A Notice of Abandonment was mailed on June 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the non-final Office action of October 21, 2004; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 21, 2004 is accepted as having been unintentionally delayed.

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

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 1624 for action on the reply to the non-final Office action.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Austin W. Zhang
2800 Plymouth Road
Ann Arbor, MI 48105

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

In re Patent No. 7,167,911
Issued: January 23, 2007
Application No. 10/212,665
Filed: August 5, 2002
Dkt. No.: 12816-070001 / S 1967 GC/

: DECISION ON APPLICATION FOR
: PTA and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 19, 2007. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,167,911 on January 23, 2007. The instant request for reconsideration was timely filed March 19, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 656 days. Patentees argue that the correct adjustment is 693 days, the adjustment having been improperly reduced 37 days.

A review of the record reveals that the Office errantly accorded a reduction related to the acknowledgement of receipt of priority papers mailed December 18, 2006.

In view thereof, the patent is entitled to an adjustment of 693 days (adjustment of 697 days less reductions of four days), as argued by patentees.

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

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 693 days.

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

Kery A. Fries

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

CC: Draft Certificate of Correction

Day : Wednesday

PALM INTRANET

Date: 9/12/2007
Time: 08:59:18

PTA Calculations for Application: 10/212665			
Application Filing Date:	08/05/2002	PTO Delay (PTO):	697
Issue Date of Patent:	01/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	41
Post-Issue Petitions:	0	Total PTA (days):	693
PTO Delay Adjustment:	37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	09/12/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	37		
54.5	01/03/2007	PTA 36 MONTHS			
54	01/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
53	12/20/2006	EXPORT TO FINAL DATA CAPTURE			
52	12/18/2006	FINISHED INITIAL DATA CAPTURE			
51	12/19/2006	DISPATCH TO FDC			
49	12/18/2006	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
48	12/18/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
47	12/18/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		37	
46	12/08/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	12/06/2006	ISSUE FEE PAYMENT VERIFIED			
44	12/06/2006	ISSUE FEE PAYMENT RECEIVED			
43	11/08/2006	WORKFLOW - QUERY REQUEST - FINISH			
42	10/26/2006	TC RETURN TO PUBS			
41	10/25/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
40	10/11/2006	PUBS CASE REMAND TO TC			
39	10/16/2006	WORKFLOW - QUERY REQUEST - BEGIN			
38	09/15/2006	EXPORT TO INITIAL DATA CAPTURE			
37	09/11/2006	MAIL NOTICE OF ALLOWANCE			
36	09/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	09/05/2006	NOTICE OF ALLOWABILITY			
34	07/17/2006	DATE FORWARDED TO EXAMINER			

33	07/13/2006	RESPONSE AFTER NON-FINAL ACTION			
32	07/05/2006	MAIL NON-FINAL REJECTION			
31	06/22/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
30	06/29/2006	NON-FINAL REJECTION			
29	04/11/2006	DATE FORWARDED TO EXAMINER			
28	03/30/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	04/11/2006	DATE FORWARDED TO EXAMINER			
26	03/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
25	04/11/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
24	03/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	01/20/2006	MAIL FINAL REJECTION (PTOL - 326)			
22	01/18/2006	FINAL REJECTION			
21	12/16/2005	DATE FORWARDED TO EXAMINER			
20	12/05/2005	RESPONSE AFTER NON-FINAL ACTION		4	19
19	09/01/2005	MAIL NON-FINAL REJECTION	697		-1
18	08/31/2005	NON-FINAL REJECTION			
17	08/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	02/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	07/09/2003	REFERENCE CAPTURE ON IDS			
14	11/18/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	12/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	12/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	07/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	01/28/2003	TRANSFER INQUIRY TO GAU			
8	12/11/2002	APPLICATION DISPATCHED FROM OIPE			
7	12/10/2002	APPLICATION IS NOW COMPLETE			
6	11/18/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	11/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	09/11/2002	NOTICE MAILED--APPLICATION INCOMPLETE--			

		FILING DATE ASSIGNED			
2	08/20/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/05/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT **CERTIFICATE OF CORRECTION**

PATENT	:	7,167,911 B2
DATED	:	January 23, 2007
INVENTOR(S)	:	Heise

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 656 days

Delete the phrase "by 656 days" and insert – by 693 days--

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SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application of
Chenault et al.
Application No. 10/212,677
Filed: August 2, 2002

Attorney Docket Number:
210121.484C7

Title of Invention: COMPOSITIONS AND METHODS FOR THE THERAPY AND DIAGNOSIS OF OVARIAN CANCER

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on June 30, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 1, 2004. This decision precedes the mailing of a Notice of Abandonment .

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

It is noted the address presented on the petition differs from the correspondence address of record. 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.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Jeffrey Hundley, PH.D.
701 Fifth Avenue, Suite 6300
Seattle, WA 98104

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Commissioner for Patents
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Keith E. George
McDERMOTT WILL & EMERY LLP
600 Thirteenth Street, N.W.
Washington, DC 20005

MAILED

FEB 01 2006

TECHNOLOGY CENTER 2100

In re Application of:
Flowers, John M., et al.
Application No. 10/212,742
Filed: August 7, 2002
For: HYBRID SYSTEM ARCHITECTURE FOR SECURE PEER-TO-PEER COMMUNICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed December 14, 2005.

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**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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JAN 26 2005

OFFICE OF PETITIONS

In re Patent No. 6,734,598 :
Issue Date: May 11, 2004 :
Application No. 10/212,749 :
Filed: August 7, 2002 :
Attorney Docket No. 43890-571 :

ON PETITION

This is a decision on the petition filed August 6, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The matter is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

[1] See Official Gazette of June 22, 2004

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FitzPatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

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NOV 28 2005

OFFICE OF PETITIONS

In re
Mizuno et al.
Application No. 10/212,758
Patent No. 6,835,110
Filing Date: August 7, 2002
Attorney Docket
No.03500.016611

RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d) timely[1] filed on February 17, 2005 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of one hundred and twenty-three (123)days to a determination of two hundred and forty-three (243)days.

Applicant's request for reconsideration of PTA is **GRANTED**. The correct amount of PTA at the time of the issuance of the patent is two hundred and forty (**243**)days. The Office will *sua sponte* issue a certificate of correction reflecting this decision. In addition, the Office will correct the PTA determination displayed in PAIR to be consistent with this decision.

Applicants assert that the Office erred in the 120 days of applicant delay assessed for the IDS entry of December 23, 2003. Applicants assert that they did not submit an IDS after the mail date of the notice of allowance. Rather, applicants submitted a request for an initialed 1449 which did not accompany the notice of allowability/notice of allowance documents. Accordingly, the applicants assert that the request for an initialed 1449 is a correction of an USPTO omission.

Applicants arguments are persuasive to the extent herein indicated. Specifically, the Office agrees with applicants that there was not a submission of IDS after the mail date of the notice of allowance. Applicants were requesting a signed 1449

[1]Issued on December 28, 2004.

acknowledgment of the consideration of the prior art. The Office agrees that under the facts and circumstances the signed 1449 request is not a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). The Office notes that the Office action was in fact a first action allowance and applicant would not have had an opportunity to request the initialed 1449 prior to the notice of allowance. Accordingly, the Office does not find such submission a failure to engage. However, applicants should not read this decision as allowing applicants to request acknowledgment of an IDS under any circumstances after the mail date of the notice of allowance without PTA penalty. Applicants would have failed to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10) if the applicants would have had an earlier opportunity to address the unsigned 1449 form and failed to do so.

Applicants had no failures to engage in reasonable efforts to conclude prosecution of this application. The Office failed to act within 14 months under 37 CFR 1.702(a)(1), a fifty-nine (59) day delay and the Office further delayed in the issuance of the patent under 37 CFR 1.702(a)(4), a one hundred and eighty-nine day delay. Overall, the correct amount of PTA is two hundred and forty three (243-0=243) days.

After the mailing of this decision, the file will be forwarded to the certificate of correction branch for prompt issuance of the certificate of correction.

Applicants have provided the required $200.00 fee. No additional fees are required in the determination of this request.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

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

cc: Adjusted Pair Calculation
Draft certificate of correction

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Paper No. 5

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OCT 16 2002

OFFICE OF PETITIONS

BRUCE H. TROXELL
Suite 1404
5205 Leesburg Pike
Falls Church VA 22041

In re Application of
Lin
Application No. 10/212,762
Filed: August 7, 2002
Attorney Docket No. BHT/3106-229
For: DISK BRAKE

DECISION GRANTING PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION", filed September 17, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed September 4, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 7, 2002. On September 4, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figures 3 &4 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figures 3 & 4 be accorded a filing date of August 7, 2002 on the basis that 3 sheets of drawing figures, including drawing figures 3 & 4, were received in the Patent and Trademark Office (PTO) on August 7, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing August 7, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 3 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 3 sheets of drawing figures, including drawing figures 3 & 4, were filed on August 7, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 50-1874.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 7, 2002, using the copy of drawing figures 3 & 4 submitted with the instant petition. Office records will be corrected to show that 3 sheets of drawings were present on filing.

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

E. Shirene Willis

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

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NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON DC 20004-2128

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 10/212,773	: DECISION GRANTING PETITION
Filed: August 7, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 740756-2523	:

This is a decision on the petition, filed April 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 Information Disclosure Statement.

Frances Hicks

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

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

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Paper No. 10

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
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CHARLOTTE NC 28280-4000

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APR 2 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Erland Wittkotter	:	
Application No. 10/212,952	:	DECISION DISMISSING
Filed: 6 August, 2002	:	PETITION
For: DEVICE FOR ACCESS-PROTECTED	:	
PROCESSING OF ELECTRONIC DATA	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 February, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/EP01/01538, filed on 12 February, 2000.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

(2) the surcharge set forth in § 1.17(t); and

---

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated 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 indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 6 August, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(*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).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on 20 February, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980) where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece 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) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

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

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

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

OR (after 1 May, 2003)[2]

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

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

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

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

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Paper No. 13

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MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Erland Wittkotter	:	
Application No. 10/212,952	:	DECISION GRANTING
Filed: 6 August, 2002	:	PETITION
For: DEVICE FOR ACCESS-PROTECTED	:	
PROCESSING OF ELECTRONIC DATA	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile on 8 May, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/EP01/01538, filed on 12 February, 2001.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

---

[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).

> **(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 6 August, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

This application is being forwarded to Technology Center Art Unit 1635 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Emad Ramahi	:	
Application No. 10/212,958	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 1885	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 30, 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 September 1, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 30, 2005 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received August 29, 2006.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JAMES DAVID JACOBS, ESQ
BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Lucy J. Ryan, et al.	:	
Application No. 10/212,974	:	DECISION ON REQUEST
Filed: August 6, 2002	:	TO WITHDRAW
Attorney Docket No. 56104576-42	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed January 26, 2005.

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

A review of the file record indicates that the power of attorney to James David Jacobs, Esq. and all the attorneys/agents of record associated with Customer No. 28453 was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

There is no outstanding Office action that requires a response by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: COOLEY GODWARD LLP
THE BROWN BUILDING - 875 15TH STREET, NW
SUITE 800
WASHINGTON, DC 20005-2221

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/7/06

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10212992 Patent No.: 6991754

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**.

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

M Theisen
~~SPE~~

1732
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JOHN K. PARK
PARK & SUTTON LLP
SUITE 1110
3255 WILSHIRE BLVD.
LOS ANGELES CA 90010

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JAN 0 3 2003

OFFICE OF PETITIONS

In re Application of Jai W. Kwon Application No. 10/213,009 Filed: 6 August, 2002 For: GENOTYPING BY IN SITU PCR AMPLIFICATION OF A POLYNUCLEOTIDE IN A TISSUE BIOPSY	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53 filed on 26 November, 2002, to accord the above-identified application a filing date of 6 August, 2002.

The petition is **granted**.

On 6 August, 2002, the application was filed. On 27 September, 2002, however, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on 26 November, 2002, the present petition was filed. Petitioners request that the application be accorded a filing date of 6 August, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 1-16 are method claims. Therefore, the

[1] MPEP 601.01(f).

present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 16-0310.

The "Notice of Incomplete Nonprovisional Application" mailed on 27 September, 2002, is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 6 August, 2002, using the application papers filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Rajarshi Gupta	: DECISION ON REQUEST FOR
Patent Number	: 7599292	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1280** 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Rajarshi Gupta
Patent Number : 7599292
Issue Date : 10/06/2009
Application No : 10/213,032
Filed : 08/05/2002

: 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 **1327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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EDWARD W. BULCHIS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Joseph M. Jeddeloh :
Application No. 10/213,038 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. 501177.01

This is a decision on the petition, filed September 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 May 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Warke, Nirmal C.	:	
Application No. 10/213,039	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. TI-34212	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 25, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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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Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington, DC 20004-1206

MAILED

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OFFICE OF PETITIONS

In re Patent of Goddard et al.	:	DECISION ON REQUEST
Patent No. 7,576,162	:	FOR RECONSIDERATION OF
Issue Date: August 18, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/213,042	:	AND NOTICE OF INTENT TO
Filing Date: August 5, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 24126-240(GNE3033R1C4)	:	CORRECTION

This is a decision on the petition filed September 30, 2009, and supplemented February 25, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by four hundred eighty (480) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the above-identified patent is extended or adjusted by four hundred eighty (480) days is **GRANTED to the extent indicated herein**.

Issue 1

Patentees state the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") ended 363 days after the 3-Year Date (August 5, 2005) with the filing of a Request for Continued Examination ("RCE") on August 3, 2006. However, the period of B delay ended on August 2, 2006, *the day before* the RCE was filed. The period of time beginning August 6, 2005, the day after the date three years after the filing date, and ending on August 2, 2006, *the day before* the RCE was filed, is 362 days.

Patentees correctly recognize the period of B Delay does not include 209 days consumed by Appellant review.

The period of B Delay is 153 days (362 days reduced by 209 days).

Issue 2

A review of the file record indicates a 12-day reduction should have been entered under 37 C.F.R. § 1.704(c)(10) as a result of the request under 37 C.F.R. § 1.48(b) filed July 9, 2009.

37 C.F.R. § 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... 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

The request under 37 C.F.R. § 1.48(b) was filed July 9, 2009, after the Office mailed a Notice of Allowance on May 26, 2009. The Office mailed a response to the request on July 20, 2009. The number of days beginning on July 9, 2009, and ending on July 20, 2009, is 12 days. Therefore, a 12-day reduction should have been entered.

Issue 3

Patentees state the total patent term adjustment is 480 days. However, in view of the prior discussion, the total patent term adjustment is 467 days which is the sum of 457 days of Office delay under 35 U.S.C. § 154(b)(1)(A) and 153 days of B Delay reduced by 161 days of Applicant delay.

Fee

A petition under 37 C.F.R. § 1.705(d) must include the fee set forth in 37 C.F.R. § 1.705(d). The petition was not filed with the $200 fee.

Although the petition includes authorization to charge necessary fees to Deposit Account No. 50-4634, the petition is signed by Panpan Gao and Office records fail to indicate Panpan Gao is an authorized user of the deposit account.

A paper titled, "Authorizing Payment Under 37 C.F.R. § 1.18(e)" was filed February 25, 2010. The paper states, with emphasis added, "The Examiner is authorized to charge any fees, *including fees under 37 C.F.R. §1.18(e)* or credit payment overpayment to Deposit Account No. 50-2387."

Based on the facts above, the $200 fee under 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-2387.

Conclusion

The patent term adjustment should have been increased by 153 days for B Delay and reduced by 12 days of delay under 37 C.F.R. § 1.704(c)(10).

The total patent term adjustment is 467 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

The application is being forwarded 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 patent is extended or adjusted by **four hundred sixty-seven (467)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,576,182 B1
ISSUE DATE	:	August 18, 2009
INVENTOR(S)	:	Goddard 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 U.S.C. 154(b) by 326 days.

Delete the phrase "by 326 days" and insert - by 467 days--

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Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington, DC 20004-1206

Mail Date: 04/21/2010

Applicant	: Audrey Goddard	: DECISION ON REQUEST FOR
Patent Number	: 7576182	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,042	: OF WYETH
Filed	: 08/05/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DeLIO & PETERSON LLC
121 Whitney Avenue
New Haven CT 06510-1241

MAILED
OCT 16 2002
REEXAM UNIT

In re Application of :
James R. Burroughs et al. :
Appl. No. 10/213,046 :
Filed August 5, 2002 :
Atty. Dock. No. STR130001000 :

DECISION ON PETITION
TO EXPEDITE
PROSECUTION

This is a decision on applicants' petition of August 5, 2002, for an expedited decision ordering the separate and prompt issuance of a continuation reissue patent, which is being treated as a petition under 37 CR 1.182. The petition is before the Office of Patent Legal Administration.

For the reasons set forth below, the petition is granted to the extent that prosecution will be expedited, and dismissed as to the request for expedited issuance of the application.

DECISION

This application for reissue was filed August 5, 2002. The date announcing the filing of the reissue in the *Official Gazette* (O.G.) has not yet been set.

Office policy normally provides for a two-month delay in examination following the announcement of the filing of the reissue in the O.G. The Office will, however, generally act on continuation or divisional reissue applications prior to the expiration of the two-month period. MPEP 1441. The petition is accordingly granted as to expediting the examination of the application.

The two-month delay period following the O.G. notice is provided in order that members of the public may have an opportunity to inspect and review the reissue application, and submit pertinent information to the Office in the form of a protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioners' request does not close or remove the public's opportunity to protest the reissue application. Should

a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicants, the application will be retained in the Technology Center pending expiration of the two-month delay period, **prior to the mailing of a formal Notice of Allowance**.

It is to be noted that the granting of this petition should not be viewed as a bar to future suspension of action, should it be determined upon examination that the patentability of any claims in this application would be affected or impacted by any issue to be resolved in the ongoing appeal of Interference 103,036 to the Court of Appeals of the Federal Circuit, other litigation, or any other reason for set forth in MPEP 709.

Petitioners refer to a similar petition in Appl. No. 09/338,115. That petition is not considered to be germane as it was directed to different issues and was granted to permit non-simultaneous issuance of multiple reissue applications. The rule (37 CFR 1.177) has now been modified to permit non-simultaneous issuance of parent and continuing reissue applications.

With respect to the request for prompt issuance of the application, the following is to be noted. Reissue applications by their very nature are considered to be "special" applications. See MPEP 1442. Petitioners have not shown basis for elevating the present application from the category (c) printing priority status in MPEP 1309 to a higher category status. Nor is there a showing as to whether this application qualifies for "special" criteria set forth in MPEP 708.02.

CONCLUSION

The petition requesting expedited prosecution is <u>granted</u> to the extent that prosecution will be expedited, and <u>dismissed</u> as to the request for expedited issuance.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing, with instructions to expedite and forward to the Technology Center for examination.

Any further questions regarding the matter of this decision should be directed to Joseph Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, at (703) 305-1795.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

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Mailed: NOV - 7 2003

WAK
Paper Number 8

In re Application of
Burroughs et al.
Serial No.: 10/213,046
Filed: August 5, 2002
For: BATTERY WITH STRENGTH INDICATOR

DECISION ON PROTEST

This is a Decision on the Supplemental Protest filed under 37 C.F.R. 1.291 on March 13, 2003, 2002. Previously, the Protestor had filed a Protest under 37 C.F.R. 1.291 on January 16, 2003.

The second protest is being treated as a decision to return an improper paper. See M.P.E.P. 1901.07.

In accordance with the limited protestor participation in protests, 37 CFR 1.291(c) was amended effective July 1, 1982, and further amended on December 1, 1997, to provide that:

"limited involvement of the member of the public filing a protest . . . ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, except for additional prior art, or unless such submission raises new issues which could not have been earlier presented."

37 CFR 1.291(c) was amended effective December 1, 1997, by removing the blanket limitation of one protest per protestor, and now provides for a second or subsequent submission in the form of additional prior art. See MPEP § 1901 and § 1901.04. The Protestor in his Supplemental Protest did not present any new issues.

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

Peter I. Bernstein
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530

Peter W. Peterson
DeLio & Peterson, LLC
121 Whitney Avenue
New Haven, CT 06510-1241

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Paper No. None

Attn: David A. Carpenter, Ph.D.
Genentech, Inc.
1 DNA Way, MS 49
South San Francisco CA 94080

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OFFICE OF PETITIONS

In re Application of	:	
Sherman Fong et al.	:	
Application No. 10/213,060	:	
Filed: August 5, 2002	:	DECISION ON PETITION
Attorney Docket No. P3133R1C4	:	UNDER 37 C.F.R. §1.181(A)
Title: COMPOSITIONS AND METHODS	:	
FOR THE TREATMENT OF IMMUNE	:	
RELATED DISEASES	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on February 8, 2006.

BACKGROUND

A final Office action was mailed on May 28, 2004. On August 30, 2004, a request for continued examination was received, along with an amendment. The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment which was mailed on November 17, 2004, which did not extend the period to reply from the final Office action. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 29, 2004. A notice of abandonment was mailed on January 9, 2006.

With the present petition, Petitioner has alleged that the mailing was not received, and has included a copy of the docket record.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision.

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

Paul Shanoski

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

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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In re Patent No. 6,724,957	:	
Issued: April 20, 2004	:	
Application No. 10/213,075	:	PATENT TERM ADJUSTMENT
Filed: August 7, 2002	:	
Atty. Dkt. No.: 32307-183009	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed May 19, 2004, requesting that the above-identified patent be accorded a patent term adjustment of 85 days rather than the presently accorded adjustment of 21 days. This petition is being properly treated as an application for patent term adjustment under 37 C.F.R. § 1.705(d).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,724,957 on April 20, 2004. The instant request for reconsideration was timely filed May 19, 2004 in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 21 days. Applicant argues that the adjustment of 85 days was improperly reduced 64 days due to a "drawings-related issue."

A review of the application history reveals that the Office errantly entered February 17, 2004 as the date upon which drawings were entered into the application rather than August 7, 2002.

Thus, at the time of issuance, the patent was entitled to a PTA 85 days, as argued by applicant.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 85 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 85 days.

The Office acknowledges submission of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin Ferriter

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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October 20, 2004

THOMAS CHAN
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304

In Re Application of
STARR ET AL. : Withdrawal From Issue
Application No. 10/213,115 :
Filed: August 5, 2002 :
Title: CLOCK LOSS DETECTION AND SWITCHOVER

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Tim Callahan at (571) 272-1740.

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

James L. Dwyer
Director, Technology Center 2800
Communications

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STEPHEN R. CHRISTIAN
P.O. BOX 1625
IDAHO FALLS ID 83415-3899

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OFFICE OF PETITIONS

In re Patent No. 6,918,941	:
Issued: 19 July, 2005	: DECISION GRANTING PETITION
Application No. 10/213,120	: UNDER 37 CFR 1.78(a)(3)
Filed: 4 November, 2002	:
Atty Docket No. B-060A	:

This is a decision on the "Petition to Claim Benefit Under 35 USC 120, 121, or 365(c) of a Prior Copending Nonprovisional Application or International Application Designating the United States of America (37 C.F.R. § 1.78(a)(3))," filed on 4 October, 2004.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

> the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present application was filed on 4 November, 2002, and was pending, at the time of filing, of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 10/213,112 is granted.

The benefit claim has been entered in Office records. A corrected Filing Receipt, reflecting the instant benefit claim, is enclosed for petitioner's records.

It is noted that the above-identified application issued as U.S. Patent No. 6,918,941 on 19 July, 2005. As the front page of the patent as issued includes the instant claim of priority, no Certificate of Correction is necessary.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-0001

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JAN 1 5 2003

OFFICE OF PETITIONS

In re Application of
Jacobsen, Davis, Wells, and Fox
Application No.: 10/213,123
Filed: August 5, 2002
Attorney Docket No:39884.4600
For: SLOTTED MEDICAL DEVICE

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 11, 2002 (certificate of mailing dated December 6, 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 September 9, 2002, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth an extendable period of reply of two months from the date it was mailed. On December 11, 2002, petitionder filed the instant petition along with a request for an extension of time within the first month.

Through the instant petition, petitioner established that, although the non-signing inventor was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he has provided no response and is deemed to have constructively refused to join the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors 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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MADISON WI 53701

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SEP 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,428,476
Issued: September 23, 2008
Application No. 10/213,157
Filed: August 6, 2002
Attorney Docket No. 088245-3222

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed November 24, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred fifty-two (652) days to one thousand thirty-four (1034) days.

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

On September 23, 2008, the above-identified application matured into US Patent No. 7,5428,476 with a patent term adjustment of 652 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to an additional 382 days of patent term adjustment due to exceeding three year pendency.

The 382-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 6, 2002 and a request for continued examination (RCE)

[1] It is noted that November 23, 2008 was a Sunday and the instant Application For Patent Term Adjustment was filed on the first business day thereafter.

having being filed on March 16, 2007. The filing of an RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentees assert that in addition to this 382 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 875 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 223 days for applicant delay.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay to the filing of the RCE (587 days) and the period of Examination Delay (875 days) to the extent that these periods of delay are not overlapping. Patentees contend that 205 days of the period of delay of 875 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 (October 6, 2003 to February 27, 2006) overlaps with the Three Year Delay period (August 6, 2005 to March 16, 2007). Patentees assert that this overlapping period is the 205 days running from August 6, 2005 to February 27, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1257 days, which is the sum of the period of Three Year Delay (587 days) and the period of Examination Delay (875 days), reduced by the period of overlap (205 days). As such, patentees assert entitlement to a patent term adjustment of 1034 days (587 + 875 reduced by 205 overlap - 223 for applicant delay).

Thus, as of the issuance of the patent on September 30, 2008, the application was pending three years and 587 days after its filing date. The Office agrees that as of the filing of the RCE on March 16, 2007, the application was pending three years and 587 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a reduction of 875 days for examination delay was entered. At issue is whether patentees should accrue 587 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 875 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 587 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely

track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

---

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 6, 2002, to the date the RCE was filed on March 16, 2007. Prior to the filing of the RCE, 875 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 587 days for Office delay in issuing the patent overlap with the 875 days of Office delay. During that time, the issuance of the patent was delayed by 875 days, not 875 + 587 days. The Office experienced 875 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 875 days of Office delay and the time allowed within the time frames for processing and examination, as of the filing of the RCE, the application was pending three years and 875 days. The Office did not delay 875 days and then an additional 587 days.

Accordingly, 875 days of patent term adjustment (not 875 and 587 days) was properly entered since the period of delay of 587 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 875 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 875 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 652 days.

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

Kery A. Fries

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

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Commissioner for Patents
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VEREX PLAZA
150 EAST GILMAN ST.
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In re Patent No. 7,428,476
Issued: September 23, 2008
Application No. 10/213,157
Filed: August 6, 2002
Attorney Docket No. 088245-3222

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on October 20, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 652 days to 1034 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

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 thirty-three (1033) 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 6, 2005 and ends on March 15, 2007, the day before the RCE was filed, and the B delay considering the 250 days of overlap is 586 (not 587) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 381 days. As such, the patent term adjustment is 1033, not 1034 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand thirty-three (1033)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,428,476 B1

DATED : December 1, 2009

INVENTOR(S) : Ralph M. Toms

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 (652) days

Delete the phrase "by 652 days" and insert – by 1033 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 25 2005

Paper No. 081604

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

In re Application of:	:	
STEVEN TURNER	:	
Serial No.: 10/213,161	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 06, 2002	:	FROM RECORD
Attorney Docket No.: **3049-5438US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed March 05, 2004.

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

The request meets all the above stated requirements. The request was signed by Bretton L. Crockett, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

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

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: STEVEN TURNER
158 SOUTH 350 EAST
CLEARFIELD, UT 84015

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

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FEB 07 2003

OFFICE OF PETITIONS

COGNIS CORPORATION
2500 RENAISSANCE BLVD., SUITE 200
GULPH MILLS, PA 19406

In re Application of
Varlemann et al.
Application No. 10/213,174
Filed: August 6, 2002
Attorney Docket No. M 6287A-OS/IRA

: LETTER

This letter is in response to the paper filed on August 6, 2002.

A copy of the decision granting a 37 CFR 1.47(a) petition from a prior application has been submitted. Therefore, petitioner has complied with 37 CFR 1.63(d)(3) and MPEP 201.06(c). A separate and new petition under 37 CFR 1.47 is unnecessary for the instant application. The declaration (along with the decision from the prior application) is accepted and the signing inventors may prosecute the application on behalf of the non-signing inventor.

For the foregoing reasons, the papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

#5
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG - 4 2003

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

Law Office of Leo F. Costello
Post Office Box 930
San Luis Obispo, CA 93406-0930

MAILED

AUG - 4 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Dean B. Behlen
Application No. 10/213,189 :
Filed: August 5, 2002 :
For: ACCESSORY FOR BUILDING CONSTRUCTION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 23, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided. No valid reason was provided. Petitioner's reason that "I am retiring from the practice of law" is not a proper reason as indicated above.

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

SNM/dxn: 7/31/03

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NIKOLOAS C. GEORGE
JONES DAY
222 E. 41ST STREET
NEW YORK, NY 10017-6702

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
David **THOMAS, et al.** :
Application No. 10/213,216 :
Filed: August 6, 2002 :
Attorney Docket No. **12279-131-999** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2007 and re-submitted May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Responsive Amendment mailed October 20, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 21, 2006.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing applications 12/001,454 and 12/001,455 filed August 28, 2007.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **TANOX, INC.**
10301 STELLA LINK ROAD
HOUSTON, TX 77025

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CUBIST PHARMACEUTICALS, INC.
65 HAYDEN AVENUE
LEXINGTON, MA 02421

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OFFICE OF PETITIONS

In re Application of	:	
Michael Morytko, et al.	:	
Application No. 10/213,218	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No.: C073	:	

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 April 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1654 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CUBIST PHARMACEUTICALS, INC.
65 HAYDEN AVENUE
LEXINGTON MA 02421

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
MORYTKO, Michael et al.	:	
Application No. 10/213,218	:	DECISION GRANTING PETITION
Filed: August 6, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. C073 US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 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** December 13, 2006 **cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

MAILED
APR 15 2005
Technology Center 2100

In re Application of: Kalavade, et al.
Application No. 10/213,239
Filed: August 6, 2002
For: METHOD AND APPARATUS FOR INTEGRATING BILLING AND AUTHENTICATION FUNCTIONS IN ...

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

This is a response to the petition filed 25 October 2004, under 37 C.F.R. §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

Paper No. 9

JUL 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Charles E. CANO, et al.
Application No. 10/213,269
Filed: August 5, 2002
For: STORING STATE IN A DYNAMIC CONTENT ROUTING NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 1, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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

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

cc: Townsend, Townsend & Crew
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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APR 1 4 2003

OFFICE OF PETITIONS

In re reissue Application of Dennis Alan Marshall, Barbara H. Laird, and Timothy E. Halbeck Application No. 10/213,271 Filed: August 5, 2002 Attorney Docket No. 18602-07067 (P2001CR1)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 25, 2002.

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

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

The above-identified reissue application was filed on August 5, 2002, without, *inter alia,* an executed oath or declaration. Accordingly, on September 18, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a one month extension of time. Included with the petition was a declaration signed by joint inventors Dennis Alan Marshall and Barbara H. Laird, but lacking a signature from joint inventor Timothy E. Halbeck.

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.

The instant petition lacks item (2), an acceptable oath or declaration in compliance with 37 CFR 1.63. The declaration does not give the citizenship of inventor Halbeck. Thus, the declaration does not comply with 37 CFR 1.63(a)(3).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

By mail[1]: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306

[1] Effective May 1, 2003, the mailing address for the Office of Petitions will be changed to "Mail Stop Petitions, 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. 9

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAY 05 2003

OFFICE OF PETITIONS

In re reissue Application of Dennis Alan Marshall, Barbara H. Laird, and Timothy E. Hallbeck Application No. 10/213,271 Filed: August 5, 2002 Attorney Docket No. 18602-07067 (P2001CR1)	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition under 37 CFR 1.47(a), filed April 29, 2003 (Certificate of Mailing dated April 24, 2003).

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

The above-identified reissue application was filed on August 5, 2002, without, *inter alia,* an executed oath or declaration. Accordingly, on September 18, 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 a petition under 37 CFR 1.47(a) on November 25, 2002, and paid the surcharge for late filing of the declaration. To make timely this petition, applicant purchased a one month extension of time. Included with the petition was a declaration signed by joint inventors Dennis Alan Marshall and Barbara H. Laird, but lacking a signature from joint inventor Timothy E. Hallbeck.

However, the petition was dismissed in a decision mailed on April 14, 2003. The 37 CFR 1.63 declaration submitted with the petition failed to identify the citizenship of inventor Hallbeck, as required by 37 CFR 1.63(a)(3).

On renewed petition, applicant has submitted a declaration in compliance with 37 CFR 1.63. Applicant met the other requirements for a grantable petition under 37 CFR 1.47(a) with the petition filed on November 25, 2002. 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 inventors at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries 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
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Alexandria, VA 22313-1450
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of
Richard Z. Hricak
Application No. 10/213,277
Filed: August 6, 2002
Attorney Docket No.: 5604-1001

ON PETITION

This is a decision on the petition filed March 31, 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 21, 2003. 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 22, 2003. Accordingly, a Notice of Abandonment was mailed December 24, 2003.

This matter is being referred to Technology Center 3747 for appropriate action on the amendment filed March 31, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Mark I. Greene	: DECISION ON REQUEST FOR
Patent Number	: 7662374	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **409** 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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GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.
P.O. BOX 2906
MINNEAPOLIS, MN 55402-0906

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OFFICE OF PETITIONS

In re Application of	:	
Lloyd G. Wass	:	
Application No. 10/213,297	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 1567-S	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 25, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to file a timely response to the Notice of Allowance and Issue Fee Due mailed December 10, 2005, which set a statutory period for reply of three months from its mailing date. Extensions of time under 37 CFR 1.136(a) were not available. No response was received within the allowable period and the application became abandoned on March 11, 2006. A Notice of Abandonment was mailed on April 13, 2006.

The issue fee, publication fee, and Form PTOL 85-B, received August 25, 2006, are noted and made of record.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, filed September 27, 2005, is noted and made of record.

The application file will be forwarded to the Office of Patent Publications 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

Enclosures: "Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Er-Shiang Chen
235 Chung-ho
Box 8-24
Taipei, TAIWAN

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AUG 0 5 2004
OFFICE OF PETITIONS

In re Application of
Er-Shiang Chen :
Application No. 10/213,300 : ON PETITION
Filed: August 7, 2002:
Attorney Docket No. Ap2037-WUE2BA02 :

This is a decision on the petition under 37 CFR 1.137(b) [1], filed July 13, 2004, to revive the above identified application.

The petition is **DISMISSED**.

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

---

[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)).

This application became abandoned for failure to timely and properly respond to the non-Final Office Action mailed July 7, 2003. Accordingly, a Notice of Abandonment was mailed March 9, 2004.

Petitioner files the instant petition pursuant to 37 CFR 1.137(b) indicating that neither the non-Final Office action or the Notice of Abandonment had been received, however, the instant petition lacks item (1) of the regulation.

The instant petition was not filed with an appropriate amendment and until such time as an appropriate amendment, in response to the July 7, 2003 Office Action is filed, this application will remain in an abandoned status. A copy of the correspondences mailed July 7, 2003 and March 9, 2004 are included with this decision to provide petitioner an opportunity to file a proper response.

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497. Please be advised that effective September 24, 2004 the contact telephone number for the Office of Petitions will change to 571-272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachments: 1) 7/7/03 non-Final Office Action 2) 3/9/04 Notice of Abandonment

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hua-Sern Ji
235 Chung-Ho
Box 8-24
Taipei
TAIWAN

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MAR 18 2005
OFFICE OF PETITIONS

In re Application of
Ji
Application No. 10/213,302
Filed: August 7, 2002
Attorney Docket No. TP2006-02P1141
For: HOLDABLE MULTI-FUNCTIONAL ROTARY DEVICE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application and the petition under 37 CFR 1.181 to withdraw the holding of abandonment. Both petitions were filed on August 26, 2004.

The petition under 37 CFR 1.181 is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the February 3, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on May 4, 2004. A Notice of Abandonment was mailed on June 30, 2004.

Petitioner asserts that he did not receive the February 3, 2004 Notice of Allowance and Fee(s) Due.

Regarding the petition to withdraw the holding of abandonment under 37 CFR 1.181, the showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the February 3, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has not proven nonreceipt because (1) practitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

The petition under 37 CFR 1.181 is **dismissed**.

With respect to the petition under 37 CFR 1.137(b), applicant has submitted (1) a reply in the form of the issue fee, publication fee, and the PTOL-85, (2) an acceptable statement of the unintentional nature of the delay in responding to the February 3, 2004 Notice of Allowance and Fee(s) Due, and (3) the petition fee.

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

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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[1] See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).; MPEP 711.03(c) I A.

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NOV 22 2005

TECHNOLOGY CENTER 3600

ARTHUR G. YEAGER, P.A.
SUITE 1
245 EAST ADAMS STREET
JACKSONVILLE, FL 32202-3336

In re Application of
LAWRENCE E. BODKIN, SR.
Application No. 10/213,312
Filed: August 6, 2002

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: BUOYANCY DEVICES USING CONFORMAL CAVITIES

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on August 3, 2005.

The petition is **GRANTED** in view of the timely filed original response, received February 25, 2005. Applicant's petition indicates that the wrong serial number was placed on the response filed on February 25, 2005. Therefore, the Office did not match the original response with the correct file. The Office recently found the original timely response filed by the applicant. In view of the fact that the Office has found the original timely response the applicant's petition to Withdraw the Holding of Abandonment has been **GRANTED**.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and to the forward the application to the examiner for prompt action.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg: 11/9/2005

10213313

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/22/04

Paper No

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction on Patent No.: 6,784,333

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

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 th patent read as shown in the certificate of correction? No new matter should be introduced, nor shc the scope or meaning of the claims be changed.

Please Review this C of C

Thank You For Your Assistance

Certificates of Correction Branc

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:

SPE
TOM DUNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

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PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Traden

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Udi Manber et al	:	
Application No. 10/213,353	:	DECISION ON PETITION
Filed: August 5, 2002	:	TO WITHDRAW
Attorney Docket No. 017887-009900US	:	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, 2005.

The petition 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 Philip H. Albert on behalf of all attorneys/agents of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicants are 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

A power of attorney submitted on January 20, 2006 was improper. In this regard, compliance with 37 CFR 1.4 has not been satisfied in that the signer cannot be recognized and the printed or

typed form immediately below the signature is missing.

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

This application is being referred to Technology Center AU 2144 to await a reply to the final Office action mailed February 24, 2006.

Amelia Au
Petitions Examiner
Office of Petitions

cc: UDI MANBER
883 ROBB ROAD
PALO ALTO, CA 94306

YAHOO! INC.
701 FIRST AVENUE
SUNNYVALE, CA 94089

BROWN RAYSMAN MILLSTEIN FELDER & STEINER
900 THIRD AVENUE
NEW YORK, NY 10022

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YAHOO! INC.
C/O DREIER LLP
499 PARK AVENUE
NEW YORK, NY 10022

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MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
Udi Manber et al :
Application No. 10/213,353 : ON PETITION
Filed: August 5, 2002 :
Attorney Docket No. 600189-352 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 10, 2006, 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 November 11, 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 2164 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK, NY 10174

Mail Date: 04/20/2010

Applicant	: Udi Manber	: DECISION ON REQUEST FOR
Patent Number	: 7599911	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **276** 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. 10

KEVIN R. CASEY
RATNERPRESITA
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

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JUN 03 2004

OFFICE OF PETITIONS

In re Application of :
Catani, et al. :
Application No. 10/213,387 :
Filed: August 6, 2002 :
Attorney Docket No. MSP-49 :

ON PETITION

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 **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed July 15, 2003. Accordingly, this application became abandoned on October 16, 2003.

The file is being forwarded to Technology Center 1600 for review of the amendment, submitted April 1, 2004.

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

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MAY 18 2006

OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of	:	
Ehud Mendelson, et al.	:	
Application No. 10/213,410	:	DECISION ON REQUEST
Filed: August 5, 2002	:	TO WITHDRAW
Attorney Docket No. REL-8149	:	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 13, 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 Ralph E. Locher on behalf of himself and all the attorneys of record who are associated with Customer No. 24131.

All attorneys/agents associated with the Customer Number 24131 have been withdrawn. Accordingly, there is no attorney of record at this time.

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the assignee at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed January 10, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: U.S. Aviation Technology, LLC
11190 Heron Bay Blvd.
Suite #916
Coral Springs, FL 33076

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/15/05

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 6831131 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:

The listing of claims does not agree with what was entered as of June 28, 2004 – claims 6-8 were cancelled in that amendment and should be cancelled in the patent. Applicant cannot amend now to recapture. Also the language of the submitted claims differs slightly

SBB NMV — 1711

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date: August 29, 2005

Harry B. Shubin
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

Patent No: 6831131 B2
Applicant: Alain Bouilloux, et al.
Issued: December 14, 2004
Title: **COMPOSITION BASED ON POLYPROPYLENE ON AN ETHYLENE/ALKYL ACRYLATE COPOLYMER**

Request for Certificate of Correction:

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

Respecting the alleged errors in claims 1 and 3. **"The listing of the claims does not agree with what was entered as of June 28, 2004. Claims 6-8 were cancelled in that amendment and should be cancelled in the patent, applicant cannot amend now to recapture. Also, the language of the submitted claims differs slightly".**

In view of the foregoing, your request in these matters is hereby **denied.**

Correspondence concerning this matter should be filed and directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext.113

vt

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MAY 25 2005

Richard K. Thomson, Attorney
7691 Fairlane Drive
Fairview, PA 16415

In re application of
Michael J. Mankosa et al
Application No. 10/213,472
Filed: August 6, 2002
For: PLASTIC MATERIAL HAVING ENHANCED MAGNETIC SUSCEPTIBILITY, METHOD OF MAKING AND METHOD OF SEPARATING

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY AND ENERGY)

This is a decision on the petition submitted on November 4, 2002, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality and Section VI: Energy.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant's invention relates to a process for separating and recycling certain plastic materials. The petition states, "the recycling of plastic materials permits the conservation of our country's energy resources".

This statement is insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V and VI. Applicants statement regarding the environmental quality and the conservation of energy resources are nothing more than conclusions and, as such, are inadequate to establish for the record that the invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil and energy conservation. The petition itself must recite the specifics of the invention that applicant feels meets the above criteria in improving the environmental quality and energy conservation.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/jwk: 5/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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FEB 05 2003

OFFICE OF PETITIONS

In re Application of
Gema Santiago and Jeffrey Badin
Application No. 10/213,498
Filed: August 7, 2002
Attorney Docket No. 15739
Title: COLD POWDER BEVERAGE DISPENSER

DECISION ON PETITION

This is a decision on the petition pursuant to 37 C.F.R. §1.47(a)[1], filed on November 4, 2002.

The above-identified application was filed on August 7, 2002, identifying Gema Santiago and Jeffrey Badin as joint inventors. On September 4, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] 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 a statement of facts from the attorney of record, the petition fee, and the $65.00 surcharge.

The statement of facts submitted establishes that a 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.

2 The declaration was executed only by inventor Santiago.

Petitioner has met requirements (1) – (5) of 37 C.F.R. §1.47(a) above.

Regarding the sixth requirement above, petitioner has failed to submit a declaration which complies with 37 CFR §1.63. The declaration submitted on filing is deficient for two reasons.

First, 37 CFR §1.63(b)(1) requires the declaration to identify the application to which it is directed. The declaration contains the correct title, but the attorney docket number listed on the petition is not the same as that which is associated with the instant application. Although the discrepancy appears to be a typographical error, it must be resolved nevertheless.

Secondly, 37 CFR §1.63(a)(3) requires the declaration to identify the country of citizenship for each inventor. 37 CFR §1.63(c)(1) requires the mailing address for each inventor and the residential address for any inventor who lives at a location which is different from where the inventor customarily receives mail. The declaration is deficient, in that it fails to list this pertinent information for the non-signing inventor.

Consequently, 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)."

On renewed petition, petitioner must correct the deficiencies set forth above.

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[3]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[4]), the reply may be mailed[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries 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

3 (703) 308-6916, Attn: Office of Petitions.

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

5 Commissioner for Patents, Box DAC, Washington, DC 20231.

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Paper No. 8

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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OFFICE OF PETITIONS

In re Application of
Gema Santiago and Jeffrey Badin
Application No. 10/213,498
Filed: August 7, 2002
Attorney Docket No. 15739
Title: COLD POWDER BEVERAGE DISPENSER

DECISION ON PETITIONS

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.47(a)[1], filed on March 28, 2003, as well as a petition under 37 C.F.R. §1.78(a)(6) and 35 U.S.C. §119(e). The later is properly treated as a petition under 37 C.F.R. §1.78(a)(6).

The petition under 37 C.F.R. §1.78(a)(6)

RELEVANT LAW AND RULE

35 U.S.C. 119 Benefit of earlier filing date; right of priority.

(a) An application for patent for an invention filed in this country by any person who

[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.

has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

(b)

(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.

(2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim.The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.

(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

(d) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.

(e)

(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish

procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application

(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid.

(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.

(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

(g) As used in this section—

(1) the term "WTO member country" has the same meaning as the term is defined in section 104(b)(2) of this title; and

(2) the term "UPOV Contracting Party" means a member of the International Convention for the Protection of New Varieties of Plants.

(Amended Oct. 3, 1961, Public Law 87-333, sec. 1, 75 Stat. 748; July 28, 1972, Public Law 92-358, sec. 1, 86 Stat. 501; Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Dec. 8, 1994, Public Law 103-465, sec. 532(b)(1), 108 Stat. 4985.) (Subsection (b) amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-563 (S. 1948 sec.4503(a)).) (Subsection (e) amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-564, 588, 589 (S. 1948 secs. 4503(b)(2), 4801 and 4802).) (Subsections (f) and (g) added Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-589 (S. 1948 sec. 4802).)

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a)

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(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.

ANALYSIS

With the peition, petitioner has included an amendment to the specification which identifies the provisional application to which priority is sought, has submitted the petition fee, and has submitted a statement which is being construed as the proper statement of unintentional delay.

As such, the petition under 37 CFR 1.78(a)(6) is **GRANTED**.

The renewed peition under 37 C.F.R. §1.47(a)

The above-identified application was filed on August 7, 2002, identifying Gema Santiago and Jeffrey Badin as joint inventors. On September 4, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] 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.

The original petition, filed on November 4, 2002, was dismissed via a decision mailed on February 5, 2003, for failure to submit a declaration which complies with 37 CFR §1.63.

With the renewed petition, the petitioner has merely submitted a duplicate of the original petition and inserted the word "renewed" in the title, ignoring the reasons for dismissal set forth in the previous decision. Consequently, this reply is non-responsive, and the renewed petition under 37 C.F.R. 1.47(a) must again be **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 "Second Renewed Petition under 37 CFR 1.47(a)."

On renewed petition, petitioner must address the deficiencies set forth in the previous decision. Merely inserting the word "Second" before the title of the petition, which he has twice submitted, will result in a similar finding.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

2 The declaration was executed only by inventor Santiago.

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Paper No. 10

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of
Gema Santiago and Jeffrey Badin
Application No. 10/213,498
Filed: August 7, 2002
Attorney Docket No. 15739
Title: COLD POWDER BEVERAGE DISPENSER

DECISION ON PETITION

This is a decision on the second renewed petition pursuant to 37 C.F.R. §1.47(a)[1], filed on August 11, 2003.

The above-identified application was filed on August 7, 2002, identifying Gema Santiago and Jeffrey Badin as joint inventors. On September 4, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] 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.

[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.

2 The declaration was executed only by inventor Santiago.

The original petition, filed on November 4, 2002, was dismissed via a decision mailed on February 5, 2003, for failure to submit a declaration which complies with 37 CFR §1.63. On February 5, 2003, the petition was dismissed via the mailing of a decision which set forth:

Petitioner has met requirements (1) – (5) of 37 C.F.R. §1.47(a) above.

Regarding the sixth requirement above, petitioner has failed to submit a declaration which complies with 37 CFR §1.63. The declaration submitted on filing is deficient for two reasons.

First, 37 CFR §1.63(b)(1) requires the declaration to identify the application to which it is directed. The declaration contains the correct title, but the attorney docket number listed on the petition is not the same as that which is associated with the instant application. Although the discrepancy appears to be a typographical error, it must be resolved nevertheless.

Secondly, 37 CFR §1.63(a)(3) requires the declaration to identify the country of citizenship for each inventor. 37 CFR §1.63(c)(1) requires the mailing address for each inventor and the residential address for any inventor who lives at a location which is different from where the inventor customarily receives mail.. The declaration is deficient, in that it fails to list this pertinent information for the non-signing inventor.

On March 21, 2003, a renewed petition was received, which was merely a duplicate of the original. As petitioner failed to address either issue presented above, the renewed petition was dismissed via the mailing of a decision on July 31, 2003.

With this second renewed petition, again petitioner has failed to submit an acceptable declaration. Petitioner has submitted a duplicate of the unacceptable declaration, coupled with a new declaration which lists the non-signing inventor as the sole-inventive entity. If the petitioner wishes to amend the inventorship so that Ms. Santiago is no longer listed as an inventor for this application, a petition to that effect will need to be filed. It is assumed that this was not the petitioner's intent, but rather the omission of his client was an oversight.

Consequently, the second renewed petition under 37 C.F.R. 1.47(a) is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Third Renewed Petition under 37 CFR 1.47(a)."

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

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

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Paper No. 12

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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OFFICE OF PETITIONS

In re Application of
Gema Santiago and Jeffrey Badin
Application No. 10/213,498
Filed: August 7, 2002
Attorney Docket No. 15739
Title: COLD POWDER BEVERAGE DISPENSER

DECISION ON THIRD RENEWED PETITION

This is a decision on the third renewed petition pursuant to 37 C.F.R. §1.47(a)[1], filed on October 20, 2003.

The above-identified application was filed on August 7, 2002, identifying Gema Santiago and Jeffrey Badin as joint inventors. On September 4, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] 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.

The original petition, filed on November 4, 2002, was dismissed via a decision mailed on February 5, 2003, for failure to submit a declaration which complies with 37 CFR §1.63. On February 5, 2003, the petition was dismissed via the mailing of a decision which set forth:

Petitioner has met requirements (1) – (5) of 37 C.F.R. §1.47(a) above.

---

[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.

2 The declaration was executed only by inventor Santiago.

Regarding the sixth requirement above, petitioner has failed to submit a declaration which complies with 37 CFR §1.63. The declaration submitted on filing is deficient for two reasons.

First, 37 CFR §1.63(b)(1) requires the declaration to identify the application to which it is directed. The declaration contains the correct title, but the attorney docket number listed on the petition is not the same as that which is associated with the instant application. Although the discrepancy appears to be a typographical error, it must be resolved nevertheless.

Secondly, 37 CFR §1.63(a)(3) requires the declaration to identify the country of citizenship for each inventor. 37 CFR §1.63(c)(1) requires the mailing address for each inventor and the residential address for any inventor who lives at a location which is different from where the inventor customarily receives mail. The declaration is deficient, in that it fails to list this pertinent information for the non-signing inventor.

On March 21, 2003, a renewed petition was received, which was merely a duplicate of the original. As petitioner failed to address either issue presented above, the renewed petition was dismissed via the mailing of a decision on July 31, 2003.

On August 11, 2003, petitioner submitted a second renewed petition, which was dismissed via the mailing of a decision on August 20, 2003. The decision set forth:

Petitioner has submitted a duplicate of the unacceptable declaration, coupled with a new declaration which lists the non-signing inventor as the sole-inventive entity. If the petitioner wishes to amend the inventorship so that Ms. Santiago is no longer listed as an inventor for this application, a petition to that effect will need to be filed. It is assumed that this was not the petitioner's intent, but rather the omission of his client was an oversight.

With this third renewed petition, petitioner has again submitted a deficient declaration. Although this declaration contains the pertinent information for both inventors, the attorney docket number does not match up with the instant application. As stated previously, this is unacceptable.

The Office cannot accept a declaration which corresponds to a different application.

Consequently, the third renewed petition under 37 C.F.R. 1.47(a) is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Fourth Renewed Petition under 37 CFR 1.47(a)."

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

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Paper No. 15

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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OFFICE OF PETITIONS

In re Application of
Gema Santiago and Jeffrey Badin
Application No. 10/213,498
Filed: August 7, 2002
Attorney Docket No. 15739
Title: COLD POWDER BEVERAGE DISPENSER

DECISION ON FOURTH RENEWED PETITION

This is a decision on the fourth renewed petition pursuant to 37 C.F.R. §1.47(a)[1], filed on January 15, 2004.

The above-identified application was filed on August 7, 2002, identifying Gema Santiago and Jeffrey Badin as joint inventors. On September 4, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] 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 this fourth renewed petition, petitioner has submitted a new declaration and a statement of facts.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). <u>This application is hereby accorded Rule 1.47(a) status</u>.

---

[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.

2 The declaration was executed only by inventor Santiago.

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

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *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

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
10/213,498	08/07/2002	Gema Santiago	15739

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

MAILED

MAR 22 2005

Director's Office
Group 3700

CONFIRMATION NO. 2248

OC000000015528466

Date Mailed: 03/22/2005

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/22/2004.

- 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.

Rebecca Tsehaye
REBECCA TSEHAYE
3700 (571) 272-3750

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/213,498	08/07/2002	Gema Santiago	15739

MAILED

MAR 2 2 2005

Director's Office
Group 3700

CONFIRMATION NO. 2248

OC000000015528513

Gema Santiago
23-59 128th Street
Flushing, NY 11356

Date Mailed: 03/22/2005

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/22/2004.

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

Rebecca Tsehaye

REBECCA TSEHAYE
3700 (571) 272-3750

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SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE CA 92614-7230

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Michael Newell et al :
Application No. 10/213,505 :
Filed: August 6, 2002 :
Attorney Docket No. 42119.0300 :

ON PETITION

This is a decision on the petition, filed May 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

10/213505

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : 11-4-05

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6851882

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 th scope or meaning of the claims be changed.

Check Claims

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:
Yes Claim 40 was canceled during prosecution

SPE

2851
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Tradema

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,851,812 B2

DATED: February 8, 2005

INVENTOR(S): Newell et al.

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

Col. 16, line 7-11, please delete the following text.

"40. A light separator for separating two light components while correcting an aberration in said light components comprising a plurality of polarizing beamsplitters tilted with respect to one another and having active surfaces oriented to face substantially away from one another."

MAILING ADDRESS OF SENDER:

PATENT NO. 6,851,812

Teitelbaum & MacLean
Registered Patent Agents Limited
1187 Bank Street, Ste 201
Ottawa, Ontario
Canada
K1S 3X7

Tel: (613) 523 3784
Fax: (613) 523 6799
Email: nt@patents.org
www.patents.org

OCT 2 6 2005

Form PTO 1050

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Fischer et al.	:	
Application No. 10/213512	:	
Filing or 371(c) Date: 08/06/2002	:	ON PETITION
Patent No. 7049488	:	
Issue Date: 05/23/2006	:	
For: NUCLEIC ACIDS THAT	:	
CONTROL SEED AND FRUIT	:	
DEVELOPMENT IN PLANTS	:	

This is a notice regarding 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**. Petitioner's deposit account has been charged the fee deficiency as authorized in the petition.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

HARRINGTON & SMITH LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

MAIL

AUG 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Pillai, Shyam

Application No. 10/213517
Filed: August 06, 2002
For: METHOD AND APPARATUS FOR INTEGRATING DISPARATE TELECOMMUNICATION OPERATIONAL SUPPORT SYSTEMS (OSS) AND STREAMLINING BUSINESS PROCESSES USING A SOFTWARE PLATFORM

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 July 06, 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 29683 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: Dr. Avi Basu
Connective Systems
21-00 Route 208 South
Fair Lawn, NJ 07410

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

Dr. Avi Basu
21-00 Route 208 South
Fair Lawn NJ 07410

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JAN 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Pillai et al.	:	DECISION ON PETITION
Application No. 10/213,517	:	
Filed: August 6, 2002	:	
Atty Docket No.	:	

This is a decision on the Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) filed September 8, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed September 6, 2008. The restriction requirement set a one month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No timely reply or extension of time filed, the application became abandoned effective October 7, 2008. A courtesy Notice of Abandonment was mailed on September 18, 2007.

The petition includes the required reply in the form of an election and payment of the petition fee. In addition, the petition includes the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 2614 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 8, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Chen et al.	:	
Application No. 10/213,532	:	
Filed: August 6, 2002	:	
Attorney Docket No. K35R1760	:	

This is a decision on the petition under 37 C.F.R. § 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 December 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 15, 2005.

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

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to 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

cc: JOSHUA C. HARRISON, ESQ.
WESTERN DIGITAL TECHNOLOGIES, INC.
20611 LAKE FOREST DR. - C205
LAKE FOREST, CA 92630

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

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JAN 21 2004

Office of the Director
Group 3600

REED & EBERLE, LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

In re:	Mark A. Petrie.	: Decision on Withdraw
Serial No.	10/213,538	: a Holding of Abandonment
Filed :	August 6, 2002	:

For: N-HYDROXY-N'-NITROOUREA AND RELATED COMPOUNDS AS HIGH ENERGY DENSITY MATERIALS

This is a decision on the request to withdraw the holding of abandonment, received on September 02, 2003

Having fulfilled the requirements of 37CFR 1.83(b), the applicant's petition is GRANTED.

The response to the restriction requirement filed February 28, 2003 will be entered and the application will be forward to examiner Miller for examination on the merits.

Any questions or comments with respect to this decision should be forwarded to Michael J. Carone at (703) 306-4198.

Michael J. Carone
Supervisory Patent Examiner
Technology Center 3600
(703) 306-4198

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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MAR 1 9 2003

OFFICE OF PETITIONS

In re Application of Lakshman Rathnam, Herbert Kraus, and Dubravko Babic Application No. 10/213,540 Filed: August 6, 2002 Attorney Docket No. 2460P	:	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed November 13, 2002 (Certificate of Mailing dated November 4, 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 August 6, 2002, without an executed oath or declaration. Accordingly, on September 12, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this petition, applicant included a Certificate of Mailing dated November 4, 2002. Included with the petition was a declaration signed by joint inventors Lakshman Rathnam and Dubravko Babic, but lacking a signature from joint inventor Herbert Kraus.

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, *inter alia*, copies of cover letters to Kraus, dated August 27, September 19, and October 2, 2002, transmitting the application papers. According to Liu, no executed declaration from Kraus has been received.

BEST AVAILABLE COPY

The declaration filed November 13, 2002, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a).

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

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

The application file is being forwarded to 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MONSANTO COMPANY
800 N. LINDERGH BLVD.
ATTENTION: GAIL P. WUELLNER,
IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

COPY MAILED

AUG 0 4 2008

In re Application of	:	
Heather M. ANDERSON, et al	:	
Application No. 10/213,547	:	DECISION ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 38-21(15676)B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 13, 2006, which set a shortened statutory period for reply of three (3) months. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1638 for appropriate action by the Examiner in the normal course of business on the reply received March 17, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10213547 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/17/2008	00011643	4	1453	$1,540.00	03/17/2008	DA 134125
08/17/2006	00000018	1	1255	$2,160.00	08/17/2006	DA 134125
01/17/2003	00000056	1	1051	$130.00	01/16/2003	DA 134125
01/09/2003	00000029	1	8021	$80.00	01/08/2003	DA 134125
08/09/2002	00000044	1	101	$740.00	08/06/2002	DA 134125
08/09/2002	00000045	1	102	$420.00	08/06/2002	DA 134125

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 15676B

First named inventor: Anderson et al

Application No.: 10/213,547 Art Unit: 1638

Filed: August 6, 2002 Examiner: Brent T. Page

Title: DNA MOLECULES FROMMAIZE AND METHODS OF USE THEREOF

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 $ 1540.00 (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 Response to Notice of Abandonment (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Forchisha Davis/	March 17, 2008
Signature	Date
Forchisha Davis	48,371
Typed or printed name	Registration Number, if applicable
800 N. Lindbergh Blvd.	314-694-3151
Address	Telephone Number
St. Louis, MO 63167	
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 as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

OIPE IAP55
AUG 17 2006
PATENT & TRADEMARK OFFICE

PTO/SB/22 (12-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional) 38-21 (15676)B
Application Number 10/213,547	Filed 08/06/2002
For Plant Regulatory Sequences for Selective Control of Gene Expression	
Art Unit 1638	Examiner Page, Brent T

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$450	$225	$
☐	Three months (37 CFR 1.17(a)(3))	$1020	$510	$
☐	Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☑	Five months (37 CFR 1.17(a)(5))	$2160	$1080	$ 2160

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 13-4125. I have enclosed a duplicate copy of this sheet.

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

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).

☑ attorney or agent of record. Registration Number 48,371

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Forchisha M. Davis — Signature

08/10/04 — Date

Forchisha M. Davis — Typed or printed name

314-694-3151 — Telephone Number

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 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 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.

08/17/2006 EAREGAY1 00000014 134125 10213547

01 FC:1255 2160.00 DA

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

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Heather M. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7645919	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1444** 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
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Heather M. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7645919	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1444** 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
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 05/18/2010

Applicant : Heather M. Anderson
Patent Number : 7645919
Issue Date : 01/12/2010
Application No : 10/213,547
Filed : 08/06/2002

: 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 **1479** 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CHENG-FENG WAN
16210 SHADYBANK DRIVE
DALLAS TX 75248

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Chang-Feng Wan :
Application No. 10/213,564 : DECISION GRANTING PETITION
Filed: August 7, 2002 : UNDER 37 CFR 1.137(b)
For: MICRO-ELECTRO MECHANICAL DEVICE :
MADE FROM MONO-CRYSTALLINE SILICON
AND METHOD OF MANUFACTURE THEREFOR

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This 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, which required the submission of (1) $140 for a multiple dependent claim fee and (2) claims commencing on a separate sheet. The Notice set a period for reply of two (2) months from the mail date of the Notice. The $140 multiple dependent claim fee was timely received on September 23, 2002; however, claims commencing on a separate sheet were not received. Accordingly, as no extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a complete reply to the Notice of September 9, 2002 was not received, this application became abandoned on November 10, 2002. A Notice of Abandonment was mailed on December 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the remaining reply (claims commencing on a separate sheet), (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of September 9, 2002 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHANG-FENG WAN
16210 SHADYBANK DRIVE
DALLAS TX 75248

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of
Chang-Feng Wan
Application No. 10/213,564
Filed: August 7, 2002
Attorney Docket No. 0001-3-10004

DECISION ON REQUEST

This is a decision on the Request for Refund filed February 11, 2009 and supplemented on April 17, 2009.

The request is **DISMISSED**.

This application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed on September 9, 2002.

On March 5, 2008, the Office mailed a Notice entitled: "Withdrawal Of Previously Sent Notice" stating that the "Notice of Abandonment mailed on December 19, 2005, was sent in error and is hereby withdrawn." However, the Office erred in mailing the Notice of March 5, 2008, since the application was properly abandoned on December 19, 2005.

Further, it is noted that the phrase "[o] filing" in 35 U.S.C. 41(a) (7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee. MPEP 711.03(c) (III) (B).

The Office sincerely apologizes for the error in the mailing of the Notice on March 5, 2008.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS
GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,913,760	:	
Issue Date: July 5, 2005	:	
Application No. 10/213,584	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 18475-026	:	

This is a decision on the petition filed July 19, 2005, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323. Any request for a Certificate of Correction must be accompanied by the $100 Certificate of Correction fee.

Finance records indicate that petitioner submitted a $400 petition fee for the treatment of the instant petition. However, a petition under 37 CFR 3.81 requires a $130 processing fee. Therefore, the difference of $270 has been credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

---

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,795,132	2004-09-21	10/213,620	2002-08-06	GOAP0001USA

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	/Winston Hsu/	Date (YYYY-MM-DD)	2009-03-11
Name	Winston Hsu	Registration Number	41526

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. 6795132
Issue Date: September 21,2004
Application No. 10213620
Filed: August 6,2002
Attorney Docket No. 087940-000000US

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

This is a decision on the electronic petition, filed March 11,2009 ,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 March 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

UR
PAPER NO.4

FEB 11 2003

In re Application of	:	
David L. Schroder et al.	:	DECISION
Serial No. 10/213,637	:	ON
Filed: August 07, 2002	:	PETITION
For: METHOD FOR TREATMENT OF	:	UNDER 708.02,V
POLLUTANTS USING IRON-	:	
IMPREGNATED, CARBON-COATED,	:	
SILICA SAND	:	

This is in response to the petition filed August 07, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

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

Mr. David L. Schroder
P.O. Box 62
Sylvania, OH 43560

UNITED STATES PATENT AND TRADEMARK OFFICE

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

O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA 92660

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SEP 2 9 2006
OFFICE OF PETITIONS

In re Application of	:
Foerster et al.	:
Application No. 10/213,638	: DECISION ON PETITION
Filed: 7 August, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. END 897	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 14 March, 2006, to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120.

The petition is **DISMISED AS MOOT**.

In the instant petition, petitioner requests that the relationship to prior-filed Application No. 09/954,646 be changed from a "divisional" to a "continuation". No petition under 37 CFR 1.78(a)(3) and surcharge is required when the applicant is changing the relationship in a benefit claim from "continuation" (or "divisional") to "continuation-in-part" or from "continuation-in-part" to "continuation (or "divisional"), or from "continuation" to "divisional," because the Office was able to schedule the application for publication with the relationship given.

As such, the petition is unnecessary and the petition fee will be refunded. A corrected Filing Receipt, noting the corrected priority information, is included with this decision.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3736 for further processing.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/213,638	08/07/2002	3736	1256	END 897	7	30	7

CONFIRMATION NO. 6196

CORRECTED FILING RECEIPT

OC000000020418847

34263
O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH, CA 92660

Date Mailed: 09/14/2006

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)

Seth A. Foerster, San Clemente, CA;
Fred H. Burbank, San Juan Capistrano, CA;
Mark A. Ritchart, Murrieta, CA;
Elias A. Zerhouni, Baltimore, MD;

Power of Attorney: The patent practitioners associated with Customer Number **34263**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/954,646 09/18/2001
which is a CON of 09/776,125 02/02/2001 PAT 7,044,957
which is a CON of 08/858,389 05/19/1997 PAT 6,228,055
which is a CON of 08/308,097 09/16/1994 ABN

Foreign Applications

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
US10/213,638

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND DEVICES FOR DEFINING AND MARKING TISSUE

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

WILLIAM R. ALLEN
WOOD HERRON & EVANS L.L.P.
2700 CAREW TOWER
CINCINNATI, OH 45202

COPY MAILED

NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Troy Vanderhoof et al	:	
Application No. 10/213,640	:	NOTICE
Filed: August 7, 2002	:	
Attorney Docket No. ANCO-50US	:	

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 1700.

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

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JONES, WALKER, WAECHTER, POITEVENT,
CARRERE & DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

COPY MAILED

FEB 07 2003

OFFICE OF PETITIONS

In re Application of:	
Walter G. Pearson, Dennis J.	
Murdock and Todd R. Funderburk	
Application No. 10/213,674	DECISION GRANTING
Filed: August 6, 2002	STATUS
Title of Invention: VACUUM DRUM	UNDER 37 CFR 1.47(a)
PILL COUNTER	

This is in response to the Petition Under 37 C.F.R. 1.47, which is being treated as a petition under 37 CFR 1.47(a), filed November 25, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Dennis J. Murdock, refuses to sign the declaration after being presented with the above-identified application and declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the 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 continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dennis J. Murdock
1735 Highway 1241
Dry Prong, LA 71421

COPY MAILED

FEB 07 2003

OFFICE OF PETITIONS

In re Application of:
Walter G. Pearson, Dennis J. Murdock and Todd R. Funderburk
Application No. 10/213,674
Filed: August 6, 2002
Title of Invention: VACUUM DRUM PILL COUNTER

LETTER

Dear Mr. Murdock:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JONES, WALKER, WAECHTER, POITEVENT,
CARRERE & DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/21/06

TO SPE OF : ART UNIT **2114**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/213690**___ Patent No.: **6986078**

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: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

~~SCOTT BADERMAN~~
~~SUPERVISORY PATENT EXAMINER~~
SPE

2114
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/8/08

Paper No.: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 6815544/10243711

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.**

Changes to Claims approved?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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

1624
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

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

COPY MAILED

DEC 14 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Okuyama, et al. :
Application No. 10/213,719 :
Filed: August 7, 2002 :
Attorney Docket No. 1232-4896 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 26, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated 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]

A review of the file record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

---

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

The application is being referred to Technology Center AU 2851 for further processing of the request for continued examination under 37 CFR 1.114 filed December 7, 2004.

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

cc: MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Okuyama, et al. : DECISION ON PETITION
Application No. 10/213,719 :
Received: August 7, 2002 :
Docket No.: 1232-4896 :

This is a decision on the petition under 37 CFR 1.181, filed November 4, 2005.

This application was held abandoned May 15, 2005 for failure to timely submit a proper reply to the Notice of Allowance mailed February 14, 2005. Notice of Abandonment was mailed October 14, 2005.

The petition is hereby **GRANTED**.

Petitioners assert non-receipt of the communication mailed February 14, 2005.

In the absence of any irregularity in the mailing of the communication, there is a strong presumption that the communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Office communication was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Technology Center 2800 for mailing of a new Notice. The time period for response will be set to run from the date the new Notice is mailed.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of :
Okuyama, et al. : DECISION ON PETITION
Application No. 10/213,719 :
Received: August 7, 2002 :
Docket No.: 1232-4896 :

This is a decision on the petition under 37 CFR 1.181, filed November 4, 2005 and corrects the decision mailed August 25, 2006.

This application was held abandoned May 15, 2005 for failure to timely submit a proper reply to the Notice of Allowance mailed February 14, 2005. Notice of Abandonment was mailed October 14, 2005.

The petition is hereby **GRANTED**.

Petitioners assert non-receipt of the communication mailed February 14, 2005.

In the absence of any irregularity in the mailing of the communication, there is a strong presumption that the communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Office communication was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Technology Center 2800 for mailing of a new Notice. The time period for response will be set to run from the date the new Notice is mailed.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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

COPY MAILED
AUG 2 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Peter Rule, et al.	:	
Application No. 10/213,730	:	DECISION ON PETITION
Filed: August 6, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. OPTIS.013A		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(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 August 6, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (703) 305-9220[1].

This application is being forwarded to Technology Center Art Unit 3736 for appropriate action on the amendment filed January 26, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

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

Attachment: Corrected Filing Receipt

[1] Effective September 27, 2004, the telephone number will be 571-272-3204

United States
Patent And
Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Pre-Grant Publication Division
2231 Crystal Drive, Suite 905
Arlington, VA 22201
www.uspto.gov

September 27, 2004

PROCESSED BY
PG PUB DIVISION
SEP 27 2004

Jeff Coulter
Reed Technology and Information Services, Inc.
275 Gibraltar Road
Horsham, PA 19044

RE: **Authorization of Corrections for A9 Publication**

Authorization is given to publish the following original application for the purpose(s) of modifying the specified text, images or other documentation, as an A9 publication to correct publication inaccuracies.

Patent Application Number: 10/213,730
Publication Number Reference: US20030040663A1

Projected A9 Export Date: 9/30/04
Projected Publication Date: 12/02/04

The following errors are referred to on the front page of the A1 Publications of the application.

1) See attachments Palm Intranet Continuity Information concerning the Related U.S. Application Data for (USPTO), "Pub. No.:US20030040663A1", for the purpose of adding continuity information to the Related U.S. Application Data. Those notated sections of the A1 publication are authorized for correction:

Reference: Front page of A1 publication

A. "Publishing the application omitting two applications from the Related U.S. Application Data."

2) In accordance with Page III-37 of the 29Jan02 edition of the DATA PREPARATION MANUAL FOR PRE-GRANT PUBLICATION, the A9/P9 information document will specify the contents of the "See ..." line(s) that will be published under (15) Prior Publication Data on the front page of the A9 or P9 document.

The following information is for correction of US20030040663A1 February 27, 2003:

See Related U.S. Application Data.

Shelby Pittman
United States Patent and Trademark Office
Pre Grant Publication Division

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6740762

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:

All changes OK.

YO 12/23/04
Exm.

YO
Acting **SPE**

1626
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/04

TO SPE OF : ART UNIT 1626

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Lamonte Newsome

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

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

Comments:

All corrections approved.

Examiner

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626

Art Unit

PTO/SB/ 44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control Number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,740,762

DATED : May 25, 2004

INVENTOR(S) : Zoeller 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 18, line 64, reads
"alkaline earth silicate is not a zeolite, at reaction condition"
but should read
"alkaline earth silicate is not a zeolite, at reaction conditions"

Column 20, line 8, reads
"12. A process according to claim wherein the catalyst is"
but should read
"12. A process according to claim 11 wherein the catalyst is"

Column 20, line 10, reads
"talc ($Mg_3Si_4O_{10}$), serpentine ($Mg_2Si_2O_5(OH)_2$), wollasto-"
but should read
"talc ($Mg_3Si_4O_{10}$), serpentine ($Mg_2Si_2O_5(OH)_2$), wollasto-"

Column 20, line 12, reads
"($Ca_2MgSi_2O_7$), and montcellite ($CaMgSiO_4$)"
but should read
"($Ca_2MgSi_2O_7$), and montcellite ($CaMgSiO_4$)".

MAILING ADDRESS OF SENDER:
Eric D. Middlemas
Eastman Chemical Company
P.O. Box 511
Kingsport, TN 37662

PATENT NO. 6,740,762

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, 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.

24 JUN 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6740762

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:

All changes ok.

SD
Examiner

_____ **SPE** _____ **Art Unit**

PTO/SB/ 44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control Number.

(Also Form PTO-1050)

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CERTIFICATE OF CORRECTION

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

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but should read
"($Ca_2MgSi_2O_7$), and montcellite ($CaMgSiO_4$)".

MAILING ADDRESS OF SENDER:
Eric D. Middlemas
Eastman Chemical Company
P.O. Box 511
Kingsport, TN 37662

PATENT NO. 6,740,762

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, 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.

24 JUN 2004

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

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DEC 23 2009

OFFICE OF PETITIONS

In re Patent of Barry	:	
Patent No. 7,554,012	:	DECISION ON REQUEST
Issue Date: June 30, 2009	:	FOR RECONSIDERATION OF
Application No. 10/213,791	:	PATENT TERM ADJUSTMENT
Filing Date: August 7, 2002	:	
Attorney Docket No. MONS: 197USD1	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)" filed August 28, 2009. Patentee requests the determination of patent term adjustment indicated on the patent be corrected from twenty-two (22) days to five hundred fifteen (515) days.

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

The application matured into United States Patent No. 7,554,012 with a patent term adjustment of 22 days on June 30, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentee asserts the correct patent term adjustment is 515 days. Specifically, patentee asserts the patent term adjustment should have been increased 493 for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."[1] In other words, B Delay in this case does not include the time period from the date a request for continued examination was filed until the date the patent issued.

---

[1] *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

The application was filed August 7, 2002. A Request for Continued Examination was filed December 14, 2006. The number of days beginning on the day after the date three years after the application was filed until the day before the date a RCE was filed is 493 days. Therefore, the Office agrees with patentee's assertion the amount of B Delay is 493 days.[2]

Although the Office agrees the amount of B Delay is 493 days, the Office does not agree the patent term adjustment should have been increased due to B Delay. 35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentees do not dispute that the total period of Office delay is the sum of the period of A Delay (553 days) and the period of B Delay (493 days) to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 0 days. The Office does not agree with patentees' assertion. The Office contends the period of overlap is 493 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the 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.[3]

---

[2] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(ii)-(iii).

[3] *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) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, August 7, 2002, to the date of issuance of the patent, June 30, 2009, excluding any time period consumed by continued examination of the application under 35 U.S.C. § 132(b). In other words, the relevant time period for determining if periods of delay "overlap" is August 7, 2002, to December 13, 2006.

The entire 493 days of B Delay overlap the 553 days of A Delay accrued prior to the filing of the request for continued examination on December 14, 2006. Therefore, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

In view of the previous discussion, the patent term adjustment set forth on the patent remains 22 days.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

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
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Gerard F. Barry	: DECISION ON REQUEST FOR
Patent Number	: 7554012	: RECALCULATION of PATENT
Issue Date	: 06/30/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/213,791	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **515** 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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NE

Mailed: 11/23/05

In re application of
Blaker et al.
Serial No. 10/213,819
Filed: August 7, 2002
For: TOMATO PASTE AND SAUCE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181 filed March 16, 2004. The petition request that the abandonment, as set forth in the Notice of Abandonment of February 23, 2004, for failure to timely file a proper reply to the Office letter mailed August 13, 2003, be withdrawn since applicants did timely file a response by facsimile transmission on February 13, 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 evidence presented reveals that the Notice of Abandonment of February 23, 2004 was previously withdrawn and the application subsequently acted on by the Examiner.

In view of the Request For Continued Examination filed July 16, 2004 by the petitioner, the application was returned to pending status. Accordingly, the Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

UNILEVER INTELLECTUAL PROPERTY GROUP
700 Sylvan Avenue
Bldg C2 South
Englewood Cliffs, NJ 07632-3100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE, BLDG C2 SOUTH
ENGLEWOOD CLIFFS NJ 07632-3100

In re Application of	:	
Nancy Sue Blaker et al	:	
Application No. 10/213,819	:	ON PETITION
Filed: August 7, 2002	:	
Attorney Docket No. F6117(V)	:	

This is a decision on the petition, filed March 7, 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 **Dismissed.**

Petitioner failed to submit a copy of the PTOL 1449 identifying the references to be considered. Even though the references were to be filed separately by express mail within the suspension period of one month, the filing of an RCE **must** have an submission.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Nancy Sue Blaker et al :
Application No. 10/213,819 : ON PETITION
Filed: August 7, 2002 :
Attorney Docket No. F6117(V)

This is a decision on the petition filed, March 15, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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OCT 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Nancy Sue Blaker, et al.	:	
Application No. 10/213,819	:	ON PETITION
Filed: August 7, 2002	:	
Attorney Docket No.: F6117(V)	:	

This is a decision on the petition, filed October 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1761 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of :
Bret Berner, et al. :
Application No. 10/213,823 :
Filed: August 7, 2002 :
Attorney Docket No. 015662-001110US :

ON PETITION

This is a decision in response to the petition, filed February 27, 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 an Office action mailed June 28, 2006. A Notice of Abandonment was mailed on January 24, 2007. In response, on February 27, 2007, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted February 27, 2007 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., September 29, 2006. Since no extension of time fees are due on a petition for revival, the $510 extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1617 for consideration of the amendment filed February 27, 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of:	:	
Harris et al.	:	
Application No. 10/213,852	:	DECISION ON
Filed: August 7, 2002	:	PETITION
Title of Invention:	:	
INFORMATION ENCODING AND	:	
DECODING METHOD	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed November 15, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 7, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 8, 2004. A Notice of Abandonment was mailed October 4, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 2664 for processing of the Amendment, filed November 15, 2005, in due course.

Telephone inquiries related to this decision may 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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ALLSTON L. JONES
PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Crespin et al.	:	
Application No. 10/213,868	:	ON PETITION
Filed: August 5, 2002	:	
Attorney Docket No. 3521.170	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on February 23, 2005.

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

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

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed January 29, 2004. The Restriction Requirement set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on March 1, 2004. A Notice of Abandonment was mailed on November 1, 2004.

Petitioner asserts that a reply to the restriction requirement was submitted within the one month reply period. Petitioner states he has supplied a copy of the reply (C1-C2), transmittal letter (D1-D2), express mail label (E) and a post card receipt (F). However a review of the record shows the Office has not received a copy of the above evidence.

On renewed petition, evidence in support of the petition should be provided.

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

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

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

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

Charlema R. Grant
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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ALLSTON L. JONES
PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Crespin et al. :
Application No. 10/213,868 :
Filed: August 5, 2002 :
Attorney Docket No. 3521.170 :
Title of Invention: Dual-Sided Substrate :
Measurement Apparatus and Methods

This is a decision on the petition under 37 CFR §1.181 filed August 7, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed January 29, 2004. The Restriction Requirement set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on March 1, 2004. A Notice of Abandonment was mailed on November 1, 2004.

Petitioner maintains that a response to the Restriction Requirement was mailed and received in the Office on February 26, 2004. Petitioner acknowledges a typographical error resulted in the incorrect application being provided on the response. The response contained application number 10/213,866 rather than 10/213,868. The amendment did contain the correct art unit, name of the examiner, attorney docket number, filing date and title of invention . In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a stamped post card receipt and a copy of the response which contains a certificate of mailing pursuant to 37 CFR 1.8.

The response to the restriction requirement has not been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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KACVINSKY LLC
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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SEP 0 8 2008

In re Application of	:	
Kai Miao	:	
Application No. 10/213,894	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 1020.P14385	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 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 (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 23, 2007. The Notice of Abandonment was mailed October 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN, PC
416 COFFMAN STREET
LONGMONT, CO 80501

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Dennis L. Yakobson :
Application No. 10/213,896 :
Filed: August 7, 2002 :
Attorney Docket No. RM375S :

ON PETITION

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

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

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

Telephone inquiries concerning this 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
WASHINGTON, DC 20231
www.uspto.gov

In re Application of: Michael Lamb
Serial Number: 10/213,904
Filed: August 7, 2002
For: ELECTRONIC FILTER ASSEMBLY

DECISION ON PETITION
UNDER 37 CFR 1.181

JAN 16 2003

This is a decision on the petition filed November 15, 2002 under the provisions of 37 CFR 1.181. The petition requests that the instant application be granted domestic priority rights to August 24, 1999.

The petition is GRANTED.

35 USC 120 sets for that:

> *An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier application.*

The petition is granted for the reasons as stated in applicant's request filed November 15, 2002. Applicant is granted domestic priority rights to August 24, 1999. It is noted that the shortened statutory period continues to run from the Office action mailed September 27, 2002.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

SAG/rjp

Kevin C. Brown
Burr & Brown
P.O. Box 7068
Syracuse, NY 13261-7068 USA

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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PURDUE PHARMA, LP
PATENT DEPARTMENT
ONE STAMFORD FORUM
STAMFORD CT 06901

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In re Patent No. 7,141,250	:	
Issue Date: November 28, 2006	:	
Application No. 10/213,920	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 200.1145	:	

This is a decision on the petition filed November 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required $130 processing fee under § 1.17(i) for a petition under 37 CFR 3.81(b) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : 2/15/08

Patent No. : 7144587 B2
Application No : 10/213921
Inventor(s) : Oshlack et al.
Issued : Dec. 5, 2006
Title : **PHARMACEUTICAL FORMULATION CONTAINING OPIOID AGONIST, OPIOID ANTAGONIST AND BITTERING AGENT**
Docket No. : 200.1146

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

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

Cary S. Kappel
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue
New York, NY 10018

CBN/eme

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Paper No. 7

RAMON L. PIZARRO
SUITE 200
3515 SOUTH TAMARAC DRIVE
DENVER, CO 80237

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FEB 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Craig S. Dockal :
Application No. 10/213,938 : ON PETITION
Filed: August 6, 2002 :
Attorney Docket No. 18635 83005 :

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 (Notice) mailed September 6, 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 7, 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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JJGJR.: 08-05

Paper No: 13

RAMON L. PIZARRO
SUITE 200
3515 SOUTH TAMARAC DRIVE
DENVER CO 80237

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Dockal	:	
Application No. 10/213,938	:	DECISION ON PETITION
Filing Date: 6 August, 2002	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 24 Mar 2005, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a), and also seeking relief as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition:

- as considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **DISMISSED**; and
- under 37 C.F.R.§1.137(a) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 9 June,

2004, with reply due absent extension of time on or before 9 September, 2004;

- the application went abandoned after midnight 9 September, 2004;
- the Office mailed a Notice of Abandonment on 24 January, 2005;
- the instant petition was filed on 24 March, 2005, and therein Petitioner alleges alternatively unavoidable delay and timely reply, submits a copy of an amendment as the required reply and makes a showing in support of the allegation of unavoidable delay;
- also Petitioner submits a copy of an Office fax receipt evidencing that the Office received some document from Petitioner on 9 September (Petitioner erroneously states "June 9"), 2004, however, the cover sheet bears no indication of the content of the document as contrasted with the evidence that might be offered by a detailed receipt card (see: MPEP §503[1]).

Petitioner contends that, "[i]n an attempt to obviate the need to file this petition, a telephone call

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

was placed to inform the [E]xaminer that the applicant had proof of the filing. However, the [E]xaminer informed the applicant that a petition should be filed."

As one registered to practice before the Office, Petitioner is aware that all practice before the Office is in writing.[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. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing. All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. (Emphasis supplied.)

[3] 35 U.S.C. §133 provides:

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

As to a 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.[9] (See: the commentary set forth at MPEP §711.03(c).)

Petitioner has not satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of a petition under 37 C.F.R. §1.137(a).

CONCLUSION

Accordingly, the petition:

---

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

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

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

- as considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **dismissed**; and

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

The instant application is released to Technology Center 3600 for further processing 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

OTP JC109 NOV 06 2002 PATENT & TRADEMARK OFFICE

m 11-07-02

#3

MP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/213,948	08/07/2002	David Dow	PU4541US2

CONFIRMATION NO. 4910

FORMALITIES LETTER

OC000000008766455

23347
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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.

11/08/2002 WABDELR1 00000016 071392 10213948
01 FC:1051 130.00 CH

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

S.B

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

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10) Applicant(s): Dow et al.			Docket No. PU4541US2
Serial No. 10/213,948	Filing Date August 7, 2002	Examiner	Group Art Unit

Invention: GENE POLYMORPHISMS AND RESPONSE TO TREATMENT

OIPE JC109 NOV 0 6 2002 PATENT & TRADEMARK OFFICE

I hereby certify that the following correspondence:

Response to Missing Parts

(Identify type of correspondence)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231 on

November 6 2002
(Date)

Marilyn Eldridge
(Typed or Printed Name of Person Mailing Correspondence)

Marilyn Eldridge
(Signature of Person Mailing Correspondence)

EV022027773US

Note: Each paper must have its own certificate of mailing.

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. PU4541US2

In Re Application Of: **Dow et al.**

OIPE JC109 NOV 0 6 2002 PATENT & TRADEMARK OFFICE

Serial No.	Filing Date	Examiner	Group Art Unit
10/213,948	August 7, 2002		

Invention:

GENE POLYMORPHISMS AND RESPONSE TO TREATMENT

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 **Sept. 11, 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):

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. PU4541US2

In Re Application Of: **Dow et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/213,948	**August 7, 2002**		

Invention:

GENE POLYMORPHISMS AND RESPONSE TO TREATMENT

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee	_____
☐ Design application filing fee	_____
☐ Total number of independent claims = _____	_____
☐ Total number of claims = _____	_____
☐ Multiple dependent claims	_____
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	**$130.00**
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	_____
☐ Fee for processing an application filed with a non-English language specification	_____
☐ Fee for processing and retention of application	_____
Total completion of application fees	**$130.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees	_____
Total fees due	**$130.00**

P31LARGE/REV02

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. PU4541US2

In Re Application Of: **Dow et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/213,948	August 7, 2002		

Invention:

GENE POLYMORPHISMS AND RESPONSE TO TREATMENT

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. **07-1392**
  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. **07-1392**
  A duplicate copy of this sheet is enclosed.

Virginia C. Bennett

Signature

Dated: 6 Nov. 2002

Virginia C. Bennett
Registration No. 37,092

23347
PATENT TRADEMARK OFFICE

I certify that this document and fee is being deposited on 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

Typed or Printed Name of Person Mailing Correspondence

cc:

P31LARGE/REV02

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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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Elfi Biedermann et al	:	
Application No. 10/213,952	:	DECISION ON PETITIONS
Filed: August 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 74784	:	AND 37 CFR 1.78(a)(3)

This is a decision on the petitions, filed March 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee and under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to prior-filed Application No. 09/242,540, filed February 18, 1999, as set forth in the concurrently filed amendment and Application Data Sheet.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

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

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application 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]

[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.*

As to the petition under 37 CFR 1.78(a)(3):

The petition is accompanied by an amendment to the first sentence of the specification following the title, as well as an Application Data Sheet, to include a reference to the prior-filed application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the above-noted, prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, no fee has been assessed to the petition under 37 CFR 1.78(a)(3). However, as authorized, the $130 fee for the petition under 37 CFR 1.313(c)(2) and the $790 fee RCE will be charged to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1624 for processing the RCE and concurrently filed amendment and Application Data Sheet, which now include a reference to the above-noted, prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *Note* MPEP 201.11 (III)(D) and 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,201,530	:	
Application No. 10/213,978	:	
Filed: August 7, 2002	:	ON PETITION
Issued: April 10, 2007	:	
Attorney Docket No. LEM-20302/01	:	

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

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

David A. Greenlee
P.O. Box 340557
Columbus, OH 43234-0557

Paper No. 7

In re application of
Robert S. Showghi et al.
Application No. 10/213,984
Filed: August 7, 2002
For: REMOTE ORDERING SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on February 14, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 4/17/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
David R. Smith, et al.	:	
Application No. 10/213,998	:	ON PETITION
Filed: August 7, 2002	:	
Attorney Docket No. UNL 3104.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 15, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 29, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1645 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of Sang Kee Han Application No. 10/214,015 Filed: August 6, 2002 Attorney Docket No.: BAAKJP.HAN.PT1 Title: INTERPROXIMAL BRUSH WITH GARGLE AND DISINFECTANT	: : : : : : :	DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed July 9, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

It is noted that Petitioner has listed the incorrect serial number, 10/241,015, on this petition.

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 July 15, 2003, which set a shortened statutory period for reply of three (3) months. On November 21, 2003, an after-final amendment was received, along with a one-month extension of time. On April 13, 2004, an advisory action was mailed, as the submission failed to place the application in condition for allowance. A Notice of Abandonment was mailed to counsel on May 28, 2004.

With the petition, Petitioner has submitted a Request for Continued Examination (RCE) as well as the associated fee, an amendment, the petition fee, and the proper statement of unintentional delay.

---

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.

With the instant petition, Petitioner has filed a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). Having made the proper statement of unintentional delay and having submitted the petition fee, Petitioner has met all other requirements for a grantable petition under 37 C.F.R. §1.137(b).

The application file is being forwarded to Technology Center 3700 for consideration of the submission under 37 C.F.R. §1.114, the amendment filed concurrently with this petition on July 9, 2004.

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

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

OIPE JC135
OCT 07 2002
PATENT & TRADEMARK OFFICE

Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application	10/214,023
Filing Date	August 7, 2002
First Named	Seth HETHERINGTON
Group Art Unit	1645
Examiner Name	
Total Number of Pages in This Submission	
Attorney Docket Number	PU4539US2

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [X] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [X] Other Enclosure(s) *(please identify below)*:

Copy of Notification of Missing Parts (37 CFR 1.53(b)

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	**Virginia C. Bennett** **Reg. 37,092** **Telephone: (919) 483-1012**
Signature	V. C. Bennett
Date	30 Sept. 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date:

Typed or printed name	**Marjorie J. Pfeiffer**		
Signature	Marjorie J. Pfeiffer	Date	9/30/2002

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 send to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

OIPE JC
OCT 0 7 2002
PATENT & TRADEMARK OFFICE

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to espond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT $130.00

Complete if Known	
Application Number	10/214,023
Filing Date	August 7, 2002
First Named Inventor	Seth HETHERINGTON
Examiner Name	
Group Art Unit	1645
Attorney Docket No.	PU4539US2

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 07-1392

Deposit Account Name: GlaxoSmithKline

The Commissioner is authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additonal fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1)

2. EXTRA CLAIM FEES FOR UTILITY AND

	Extra Claims			Fee from below		Fee Paid
Total Claims		-20** =	0	X		= 0.00
Independent Claims		- 3** =	0	X		= 0.00
Multiple Dependent						=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) $0.00

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non - English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR § 1.17(q)	
126	180	126	180	Submission of Information Disclosure Statement	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) $130.00

SUBMITTED BY

				Complete *(if applicable)*	
Name	Virginia C. Bennett	Registration No. (Attorney/Agent)	37,092	Telephone	(919) 483-1012
Signature	Virginia C. Bennett			Date	30 Sept. 2002

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

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.

H-1

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
10/214,023	08/07/2002	Seth Hetherington	PU4539US2

CONFIRMATION NO. 5710

FORMALITIES LETTER

OC000000008765533

23347
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

OIPE
OCT 07 2002
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.

10/08/2002 JBALINAN 00000044 071392 10214023

01 FC:105 130.00 CH

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

S.B

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY,
MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

In re Application of :
Seth Hetherington, et al. :
Application No. 10/214,023 :
Filed: August 7, 2002 :
Attorney Docket No. PU4539US2 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed August 25, 2006, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

This pending nonprovisional application was filed on August 7, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/358,302, which was filed on February 20, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

Accordingly, having found that the petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 1634 for appropriate action on the amendment submitted August 25, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/358,302.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

INTELLECTUAL PROPERTY
DEPARTMENT
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Pellymounter et al.	:	
Application No. 10/214,037	:	ON APPLICATION
Filed: August 5, 2002	:	FOR
Atty Docket No. 1302US-CON3	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed on October 22, 2008.[1]

The application for patent term adjustment is **dismissed**.

Applicants request, *inter alia*, correction of the patent term adjustment by 700 days on the basis of the Office taking in excess of three years to issue the patent. Applicants additional request entry of a period of applicant delay of 65 days, rather than the 68 days entered by the Office, and entry of an additional period of Office delay of 18 days of patent term adjustment.

With the regards to the requests for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in

[1] As the issue fee was paid on October 22, 2008, this application was timely filed.

this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Applicants state that, pursuant to 37 CFR 1.704(b), a period of applicant delay of 65 days should be entered from the filing on March 5, 2008 of a reply to the Office action mailed on September 28, 2007.

37 CFR 1.704(b) states that with respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by

the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Applicants are incorrect. The reply filed on March 5, 2008 was filed three (3) months and 68 days after the mailing of the Office action mailed on September 28, 2007. Accordingly, a 68 day period of reduction, rather than a 65 day period of reduction, in the patent term extension is properly entered.

Applicants also assert that an 18 day period of adjustment for Office delay should be entered for the period from the filing of a reply on March 5, 2008, to the mailing of the notice of allowance mailed on July 23, 2008, mailed four (4) months and 18 days after the filing of the reply on March 5, 2008.

Applicants' argument is not well taken. 37 CFR 1.703(a)(2) states that the period of adjustment under § 1.702(a) is the sum of the following periods: The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On March 5, 2008, a reply was filed. On June 27, 2008, within four (4) months of the filing of the reply, an Office action was mailed. On July 23, 2008, a notice of allowance was subsequently mailed. Nevertheless, as an Office action in response to the reply filed on March 5, 2008, was mailed on June 27, 2008, within four (4) months of the filing of the reply, entry of a period of adjustment of 18 days for Office delay is not warranted.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is five hundred eighteen (518) days.

Applicants state that the patent is not subject to a terminal disclaimer.

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 Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY DEPARTMENT
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

In re Patent No. 7,524,940	:	DECISION ON REQUEST
Pelleymounter et al.	:	FOR RECONSIDERATION OF
Application No. 10/214,037	:	PATENT TERM ADJUSTMENT
Issue Date: April 28, 2009	:	UNDER 37 CFR 1.705
Filed: August 5, 2002	:	AND
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
1302US-CON3	:	CERTIFICATE OF CORRECTION

This is in response to the APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed on June 26, 2009. Patentee requests that the determination of patent term adjustment be corrected from 585 days to 1310 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred three (603) days.

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

BACKGROUND

On April 28, 2009, the application matured into U.S. Patent No. 7,524,940, with a revised patent term adjustment of 585 days. The Office determined that the Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 711 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the RCE filed on July 19, 2007. Two (2) additional days of patent term

adjustment were entered at issuance under the three-year pendency provision. An additional period of 65 days of Office delay under 37 CFR 1.704(a)(4) was entered for the Office issuing patent on April 28, 2009, four (4) months and 65 days after the payment of the issue fee on October 22, 2008. Given the applicant delay of 193 days, the patent issued with a revised patent term adjustment of 585 (711 + 65 + 2 - 193) days.

On June 26, 2009, 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 1310 days, in part, under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1503 days as these periods do not occur on the same day. Patentees further assert that a period of 18 days of Office delay should be entered pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(2) for the mailing of a notice of allowance on July 23, 2008, four (4) months and 18 days after the filing of a reply filed on March 5, 2008.

Given the asserted applicant delay of 193 days, patentees assert entitlement to 1310 (711 + 18 + 65 + 709 - 193) days of patent term adjustment.

OPINION

Patentees assert entitlement to additional patent term adjustment for office delay because the Office action mailed on June 27, 2008, was subsequently vacated, and a notice of allowance was mailed on July 23, 2008, four months and 18 days after the filing of a reply on March 5, 2008.

Upon review, patentees' contention is well taken. The notice of allowance mailed on July 23, 2008 states that the Office action mailed on June 27, 2008, has been vacated. Under the circumstances, the period of adjustment under 35 U.S.C. § 154(b)(1)(A) and 37 CFR 1.703(a)(2) is the period beginning four (4) months after the day after the date a reply to the prior Office action was filed, March 5, 2008, and ending on the date of mailing of the notice of allowance, July 23, 2008, or 18 days.

Patentees' calculation of a period of delay of 709 (1310 + 193 - 65 - 18 - 711) days, pursuant to 37 CFR 1.702(b), for the Office taking in excess of three years to issue the patent, is incorrect. The period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ending on the day prior to the date on which a request for continued examination (RCE) was filed.

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 712 days, counting the number of days beginning on the day after the date that is three years after the filing date, August 5, 2005, and ending on July 18, 2007, the day prior to the date of filing of an RCE, rather than 709 days as calculated by patentee. Patentees' argument is articulated accordingly.

Nonetheless, patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the

> application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 5, 2002, and ending on July 18, 2007, the day prior to the date of filing of a request for continued examination (RCE), July 19, 2007,

(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 711 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(4), 65 days of patent term adjustment were accorded during the pendency of the application for Office delay after the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(2) an additional 18 days should have been accorded during the pendency of the application for Office delay after the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 712 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

712 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 711 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 712 days and the 711 days is neither permitted nor warranted. Considering the 83 (18 + 65) days of Office delay under 1.702(a)(2) and (a)(4), subsequent to the filing of the RCE, 795 (712 + 83) days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, one (1) (712 - 711) additional day of Office delay should have been entered.

CONCLUSION

Considering the applicant delay of 193 days and the 18 day period of adjustment for Office delay under 37 CFR 1.704(a)(2), and the patent term adjustment at issuance is revised to 602 (712 + 18 + 65 - 193) days.

The application file is being forwarded to the Certificates of Correction Branch of 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 six hundred two (602) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).[1] No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

C. L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

Encl: DRAFT Certificate of Correction

[1] As applicant requested reconsideration not only of the prior decision, which was held in abeyance, but also entry of the period of Office delay of 18 days, charging of the petition fee is appropriate.

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,524,940 B2

DATED : Apr. 28, 2009

INVENTOR(S) : Pelleymounter 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 (585) days

Delete the phrase "by 585 days" and insert – by 602 days--

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OCT - 1

WARNER-LAMBERT COMPANY
2800 PLYMOOOUTH ROAD
ANN ARBOR, MI 48105

In re Application of	:
Leslie Magnus et al	:
Serial No.: 10/214,046	: PETITION DECISION
Filed: August 6, 2002	:
Attorney Docket No.: 5804-D1-01	:

This is in response to the petition under 37 CFR 1.181, filed May 14, 2004, requesting withdrawal of abandonment based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicants on November 4, 2003, setting a one month shortened statutory period for reply. Upon failure to receive a reply the application became abandoned on May 5, 2003, although no Notice of Abandonment has been mailed to applicants. Applicants state that the Office action was never received and provide statements and docket reports evidencing non-receipt. In view of thereof the abandoned status is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

THOMAS, KAYDEN, HORSTEMEYER &
RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

COPY MAILED

FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of:
Todd Schneider, David Coode, Robert L. Brennan and Peter Olijnyk
Application No. 10/214,056
Filed: August 7, 2002
Title of Invention: SOUND INTELLIGIBILITY ENHANCEMENT USING A PSYCHOACOUSTIC MODEL AND AN OVERSAMPLED FILTERBANK

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition under 37 CFR 1.47(a), filed December 9, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. A one (1) month extension of time was requested and is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 7, 2002 without a fully executed oath or declaration. On September 4, 2002, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"). The Notice required, *inter alia*, an executed oath or declaration. The Notice set a two (2) month period for reply.

In response, Petitioner files the instant petition supported by a statement of facts signed by Petitioner. The statement avers that a copy of the application was sent to inventor Olijnyk via electronic mail, however, inventor Olijnyk cannot be located at his last known address and he has failed to respond to telephone messages or E-mail. Furthermore, all attempts to contact inventor Olijnyk have failed. No specifics of the efforts to contact inventor Olijnyk are provided, nor is a copy of the E-mail showing an attachment provided, nor any indication that the E-mail address that the application was sent to is that of inventor Olijnyk.

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.

It is initially noted that 37 CFR 1.47(a) provides for two separate and distinct circumstances: one where the inventor refuses to join the application after having been presented with the application for signature, and the other where an inventor cannot be found or reached after diligent effort.

As to item (1), where it is alleged that an inventor refuses to join the application after having been presented with the application, the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

In the instant case, the statement of petitioner avers that an E-mail was sent to "the co-inventors for review and comment". It is unclear whether inventor Olijnyk was included among the co-inventors, because Petitioner also asserts that inventor Olijnyk cannot be located; has not responded to E-mail messages, and all attempts to contact inventor Olijnyk have failed . Petitioner must support the assertion - that the application was sent to inventor Olijnyk via E-mail - with verifiable proof that the E-mail was sent to inventor Olijnyk's E-mail address, and that the application was received intact. Alternatively, Petitioner may mail the application via the United States Post Office to the last known mailing address of inventor Olijnyk.

Further to item (1), where it is alleged that an inventor cannot be found or reached after diligent effort (Petitioner alleges inventor Olijnyk cannot be located, and all attempts to contact inventor Olijnyk have failed), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. Emphasis supplied. See, MPEP § 409.03(d). At the very least, a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may

reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/214,061	08/07/2002	Donald E. Mabe JR.	ATTD-1002US	2644

21302 7590 03/10/2005

KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

EXAMINER
AMERSON, LORI BAKER

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 03/10/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Donald e. Mabe *et al*
Application No. 10/214,061
Filed: August 7, 2002
Attorney Docket No. **ATTD-1002US**

: DECISION ON PETITION

This is a decision on the petition, filed on August 21, 2002, requesting that examination of this application be deferred for a period of three years.

The petition requesting deferral of examination in this application was inadvertently overlooked, apparently because it was attached to other application papers.

A review of the petition to defer shows that it was timely filed, that is, it was filed prior to any action on the merits of the application. The review of the petition further shows that the petition satisfies all requirements of 37 CFR 1.103)(d).

Accordingly, examination is considered to have been deferred, *nunc pro tunc,* for a period of three years running from August 8, 2001, the filing date of provisional application 60/214,061, benefit of which has been claimed under 35 35 USC § 119(e). Therefore, the Office letter dated February 17, 2004 is hereby vacated. As the period of deferral has now expired, the application is being forwarded to the examiner for an immediate action on the merits.

PETTION GRANTED.

Gregory L. Huson
SPE, Art Unit 3764
Technology Center 3700

Knoble, Yoshida & Dunleavy
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of:
LIM, JUNG-OUK, et al
Application Serial No.: 10/214,093
Filed: August 08, 2002
For: **METHOD AND SYSTEM FOR PROVIDING CONFERENCE FEATURE BETWEEN INTERNET CALL AND TELEPHONE NETWORK CALL IN A WEBPHONE SYSTEM**

DECISION ON PETITION

This is a decision on the petition filed September 04, 2008 under 37 CFR § 1.181 in regard to the Examiner's Refusal to enter an amendment after final Office action.

Petitioner states that the "the claim amendments were submitted **solely in response to the specific points raised by the Examiner**, it is submitted that the August 1, 2008 Amendment After Final (Paper No. 25) should have been entered by the Examiner and considered on its merits."

A review of the file records reveals that a final Office action was mailed on May 02, 2008 wherein Claims 1-32 were rejected under 35 U.S.C. §112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-32 were also rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 2003/0073430 (Robertson et al).

On August 01, 2008, Applicant's filed an amendment after final Office action, requesting the cancellation of claims 1-12 and amending the language of claims 13, 17, 18-21, 23-29, and 32.

On August 29, 2008 the Office mailed an advisory action which indicated that the proposed amendment will not be entered because they raised new issues that would require further consideration and/or search.

REGULATIONS AND PRACTICE

MPEP §714.12 Amendments After Final Rejection or Action, states in part:

> Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments >filed after a final rejection, but before or on the date of filing an appeal,< complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). >Amendments filed

after the date of filing an appeal may be entered if the amendment complies with 37 CFR 41.33. See MPEP § 1206.< Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § *>1206<.

MPEP 714.13 III ACTION BY EXAMINER states in part:

> In the event that a proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. <u>If the proposed amendment presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search. The reasons for nonentry should be concisely expressed.</u>

37 CFR §1.116. Amendments after final action or appeal, states in part:

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):
> (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
> (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
> (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

The amendment filed August 1, 2008 did not cancel claims or amend claims as a result of examiner requirement. The proposed amendment did not place the application in condition for allowance. Thus the only question is whether or not the amendment places the application in better form for appeal.

Petitioner argued that the claim amendments were submitted **<u>solely in response to the specific points raised by the examiner</u>**. Upon review, the final office action of May 2, 2008 issued two rejections, one under 35 USC 112 and the other under 35 USC 103. There were not any objections or requirements of form expressly set forth by the office action. In the amendment filed August 1, 2008, the proposed amendment to claims 13, 17, 18-21, 23-29, and 32 included deleting the term "subscribers" and adding the term –callers—in claims 13, 21, 26, 29, and 32. Therefore, the proposed added limitation is one which was newly presented to claims 13, 21, 26, 29, and 32, after the prosecution is closed. In conclusion, the proposed amendment is a new issue which has not been addressed with respect to newly added --callers—in place of newly deleted "subscribers", and thus did not place the application in better form for appeal. In accordance with MPEP 714.12 above, the examiner was correct in denying entry of the amendment after final action Filed August 1, 2008.

Accordingly, Applicant's petition to have the amendment after final entered is **DENIED**.

Petitioner is reminded that the statutory period continues to run from the mailing date of May 2, 2008 of the final Office action.

Marian C. Kade

Mark Powell, Director
Technology Center 2600
Communications

10/214,109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/09/2006

TO SPE OF : ART UNIT 2800 (2853)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,866,358

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ok to delete the Foreign Patent Document as requested in c of c?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 29 2006
OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO CA 94306

In re Application of	:	
HAYASHI, et al.	:	
Application No. 10/214,131	:	DECISION ON PETITION
Filed: August 8, 2002	:	TO WITHDRAW
Attorney Docket No. 064976-5001-US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2006.

The request is **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 Jeffry S. Mann on behalf of all attorneys of record who are associated with customer No. 43850. All attorneys/agents associated with the Customer Number 43850 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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 March 31, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Norio Hayashi
1-1-112, Suimeidai
Kawanishi-shi, Hyogo 66-0116
Japan

cc: Nan Wu
Cooley Godword LLP
101 California Street, 5th Floor
San Francisco, CA 94111-5800

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
10/214,131	08/08/2002	Hayashi Norio	064976-5001-US01

CONFIRMATION NO. 5774

OC000000020617562

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

Date Mailed: 09/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2006.

- 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

OIPE IAP2
OCT 31 2006
PATENT & 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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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO CA 94306

In re Application of	:
HAYASHI, et al.	:
Application No. 10/214,131	: DECISION ON PETITION
Filed: August 8, 2002	: TO WITHDRAW
Attorney Docket No. 064976-5001-US01	: FROM RECORD

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Angela Au
Petitions Examiner
Office of Petitions

cc: Norio Hayashi
1-1-112, Suimeidai
Kawanishi-shi, Hyogo 66-0116
Japan

cc: Nan Wu
Cooley Godword LLP
101 California Street, 5th Floor
San Francisco, CA 94111-5800

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
10/214,131	08/08/2002	Hayashi Norio	064976-5001-US01

CONFIRMATION NO. 5774

OC000000020617562

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

Date Mailed: 09/28/2006

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- 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

OIPE JC174
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

#3

Docket No.: 21994-047-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tomoyuki Tashiro

Conf. No.: 5562

Application No.: 10/214,163

Group Art Unit: N/A

Filed: August 8, 2002

Examiner: Not Yet Assigned

For: METHOD OF SPINDLE MOTOR FOR HARD DISK DRIVE

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the Notice to File Missing Parts of Application – Filing Date Granted mailed September 9, 2002 (enclosed herewith), Applicant respectfully submits a Declaration, an Assignment (and Recordation Form Coversheet), an Information Disclosure Statement, and an Information Disclosure Citation (PTO SB/08).

Please charge our Deposit Account No. 22-0185 in the amount of $170.00 covering the fee set forth in 37 CFR 1.16(e) and the Assignment recordation fee. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 22-0185, under Order No. 21994-047-US. A duplicate copy of this paper is enclosed.

Dated:

Respectfully submitted,

By

Morris Liss
Registration No.: 24,510
CONNOLLY BOVE LODGE & HUTZ, LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036-3425

Docket No.: 21994-047-US
(PATENT)

OIPE JC17
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tomoyuki Tashiro

Conf. No.: 5562

Application No.: 10/214,163

Group Art Unit: N/A

Filed: August 8, 2002

Examiner: Not Yet Assigned

For: METHOD OF SPINDLE MOTOR FOR HARD DISK DRIVE

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

Dear Sir:

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Dated:

Respectfully submitted,

By

Morris Liss
Registration No.: 24,510
CONNOLLY BOVE LODGE & HUTZ, LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036-3425

MP

Please type a plus sign inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
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OIPE JC174
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/214,163
Filing Date	August 8, 2002
First Named Inventor	Tomoyuki Tashiro
Group Art Unit	N/A
Examiner Name	Not Yet Assigned
Total Number of Pages in This Submission	17
Attorney Docket Number	21994-047-US

ENCLOSURES (*check all that apply*)

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [x] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [x] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below)*

Declaration

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual Name	CONNOLLY BOVE LODGE & HUTZ, LLP Morris Liss - 24,510
Signature	Morris Liss
Date	9/23/02

[redacted]

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE JC174
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 170.00

Complete if Known	
Application Number	10/214,163
Filing Date	August 8, 2002
First Named Inventor	Tomoyuki Tashiro
Examiner Name	Not Yet Assigned
Group Art Unit	N/A
Attorney Docket No.	21994-047-US

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number: 22-0185

Deposit Account Name: Connolly Bove Lodge & Hutz, LLP

The Commissioner is hereby authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

			Extra Claims		Fee from below		Fee Paid
Total Claims		-** =		x		=	
Independent Claims		-** =		x		=	
Multiple Dependent						=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0.00

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge – late filing fee or oath	130.00
127	50	227	25	Surcharge – late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40.00
146	740	246	370	Filing a submission after final rejection (37 CFR 1.129(a))	
149	740	249	370	For each additional invention to be examined (37CFR 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)					

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($) 170.00

SUBMITTED BY				Complete *(if applicable)*	
Name (Print/Type)	Morris Liss	*Registration No. (Attorney/Agent)*	24,510	*Telephone*	(202) 331-7111
Signature	Morris Liss			*Date*	9/23/02

ML 21994-047

missing parts 11-9-02

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
10/214,163	08/08/2002	Tomoyuki Tashiro	21994-047-US

30678
CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

OIPE JC174
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5562
FORMALITIES LETTER
OC000000008751911

Date Mailed: 09/09/2002

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.

09/25/2002 BABRAHA1 00000008 220185 10214163

01 FC:105 130.00 CH

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

W/Corona

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

COPY MAILED

APR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Blaker et al.
Application No. 10/214,208
Filed: August 7, 2002
Attorney Docket No. F6117/1(V)

ON PETITION

This is a decision on the petition filed March 3, 2003, to accord the above-identified application a filing date of August 7, 2002, instead of August 6, 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 August 7, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of August 7, 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

FULBRIGHT & JAWORSKI LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of Tennenbaum, et al. Application No. 10/214,228 Filed: August 8, 2002 Attorney Docket No. HEALOR-201.1-DIV	: : : : :	ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 6, 2009.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed January 24, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on April 25, 2008. A Notice of Abandonment was mailed on August 7, 2008.

Petitioner contends that he timely filed a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address on July 31, 2007, but that it was not entered, and the January 24, 2008 Office action was mailed to the prior address of record. In support, petitioner has included a copy of a USPTO Electronic Acknowledgment Receipt, dated July 31, 2007. The receipt itemizes a 2 page "Miscellaneous Incoming Letter", given the file name of "Healor-201-power.pdf"

It is true that a 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.

However, in this case it is concluded that petitioner did not properly identify the Power of Attorney document. A review of the application file reveals that the Office did in fact receive a Revocation and Power of Attorney in the instant application on July 31, 2007. However, the document was directed to application No. 10/169,801. As such, the Office properly transferred the Revocation and Power of Attorney to that application. A review of application No. 10/169,801 indicates that the attorney docket number for that application is "Healor-201".

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

COPY MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of Tennenbaum, et al. Application No. 10/214,228 Filed: August 8, 2002 Attorney Docket No. HEALOR-201.1-DIV	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 6, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed January 24, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on April 25, 2008. A Notice of Abandonment was mailed on August 7, 2008. Applicants filed a petition to withdraw the holding of abandonment on March 6, 2009. However, the petition was dismissed in a decision mailed on March 30, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 1635 for consideration of the Amendment filed April 6, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of
Tennenbaum, et al.
Application No. 10/214,228
Filed: August 8, 2002
Attorney Docket No. HEALOR-201,1-DIV

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

This is a decision on the petition filed March 22, 2010, which will be treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed non-provisional application.

The petition is **DISMISSED.**

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

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

A reference to the prior-filed non-provisional application has been included in an amendment to the first sentence of the specification following the title. Nevertheless, the amendment is not acceptable. The proposed amendment to claim the benefit of the prior-filed non-provisional application cannot be entered because the examiner has determined that the proposed amendment raises new issues that would require further consideration and/or search. Accordingly, applicants must file a Request for Continued Examination (RCE) as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a RCE (and fee) are required. No fee is necessary for filing the renewed petition under 37 CFR 1.78(a)(3) .

Deposit account 50-0624 will be charged $1,410.00 for the instant petition fee.

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 080504

GLENN M. KUBOTA
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

AUG 16 2004

In re Application of:	:	
YEH et al.	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/214,235	:	FROM RECORD
Filed: August 7, 2002	:	
Attorney Docket No.: **508562000300**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 24, 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 Morrison & Foerster, LLP, was filed on April 12, 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 Lissi Marquis at (571) 272-1596.

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

cc: Scot A. Reader, P.C.
15300 Ventura Blvd., Suite 420
Sherman Oaks, Ca 91403

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)
6662575	2003-12-16	10214242	2002-08-06	1-23968

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	/Oliver E. Todd, Jr./	Date (YYYY-MM-DD)	2008-07-08
Name	Oliver E. Todd, Jr.	Registration Number	24746

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. 6662575
Issue Date: December 16,2003
Application No. 10214242
Filed: August 6,2002
Attorney Docket No. 1-23968

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

This is a decision on the electronic petition, filed July 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6915186	2005-07-05	10214247	2002-08-07	PAT-1001US

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	/Gene L. Tyler/	Date (YYYY-MM-DD)	2009-10-06
Name	Gene L. Tyler	Registration Number	35395

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6915186
Issue Date: July 5,2005
Application No. 10214247
Filed: August 7,2002
Attorney Docket No. 57386/02-242

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

This is a decision on the electronic petition, filed October 6,2009 ,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 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PATENT GROUP
CHOATE, HALL & STEWART
EXCHANGE PLACE, 53 STATE STREET
BOSTON, MA 02109

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SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of :
Hidenori Ikeno, et al. :
Application No. 10/214,250 :
Filed: August 7, 2002 :
Attorney Docket No. FUM-03901 :

ON PETITION

This is a decision on the petition, filed August 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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 referred to Technology Center AU 2871 for further processing of the request for continued examination under 37 CFR 1.114 filed August 26, 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

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

David L. Ray
Suite 205
2051 Silverside Drive
Baton Rouge, LA 70808

MAILED
FROM DIRECTORS OFFICE

JUN 07 2005

TECHNOLOGY CENTER 3600

In re Application of	:	
L. Wayne Prejean	:	
Serial No.: 10/214,261	:	NOTICE OF WITHDRAWAL
Filed: August 07, 2002	:	FROM ISSUE
For: CLIMBING TREE STAND	:	UNDER 37 C.F.R. 1.313 (a)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313 (a).

The application is being withdrawn to permit reopening of prosecution via the Request for Continued Examination (RCE).

USPTO records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

It is noted that the petition was submitted by an attorney different from the attorney of record in the case who allegedly represents applicant. If this is the case, an appropriate revocation of power of attorney and change of correspondence address is needed.

John J. Love, Director
Technology Center 3600
Phone: (703) 308-1020

lm/rr: 02-15-05

cc: David J. Kelly
Young & Basile, P.C.
2001 Commonwealth Blvd., Suite 301
Ann Arbor, Michigan 48105

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)
6644673	2003-11-11	10/214,270	2002-08-07	P1249DIV

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

Sole Patentee			
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	/Keith Longino/	Date (YYYY-MM-DD)	2009-02-06
Name	Keith Longino		

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. 6644673
Issue Date: November 11,2003
Application No. 10214270
Filed: August 7,2002
Attorney Docket No. P1249DIV

:

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

:

This is a decision on the electronic petition, filed February 6,2009 ,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 February 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

CALFEE, HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
James Ainsworth et al.
Application No. 10/214,277
Filed: August 7, 2002
Attorney Docket No.: 11694/04205
Title: POWDER COATING SYSTEMS

DECSION ON PETITION

This is a decision on the petition filed on February 2, 2004, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed August 5, 2003, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on September 6, 2003. A Notice of abandonment was mailed on January 13, 2004.

With the instant petition, Petitioner has submitted a response to the restriction requirement, the petition fee, a substantial Information Disclosure Statement (IDS), and a statement of facts executed by an individual who is not of record. Petitioner has also included a copy of a response to the Restriction Requirement, which contains a certificate of facsimile transmission dated September 22, 2003, and contains an authorization to charge a Deposit Account. Therefore, the

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;
(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) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

response, along with a one-month extension of time, would have been considered timely filed had it been received.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the delay was "unavoidable."

The one-month extension of time has been charged to Petitioner's Deposit account.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OCT 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Norihiro Kawatoko, et al. :
Application No. 10/214,300 :
Filed: August 8, 2002 :
Atty Docket No. 03500.016622 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 31, 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 2861 for further processing of the request for continued examination under 37 CFR 1.114 filed October 22, 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).

JFM

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

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Director's Office
Group 3700

49539

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re application of
Scaringe Rober & Gibson Todd

Serial Number: 10/214388
Filed: August 08, 2002

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **REMOVABLE FILTER DRYER WITH CAPACITY INDICATOR FOR VAPOR COMPRESSION SYSTEMS**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 **CRF** 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Richard A. Bertsch, Director
Technology Center 3700
(703) 308-0975

rt/ 8/08-03

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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PURDUE PHARMA, LP
PATENT DEPARTMENT
ONE STAMFORD FORUM
STAMFORD CT 06901

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AUG 05 2008

OFFICE OF PETITIONS

In re Patent No. 7,157,103	:	
Issue Date: January 2, 2007	:	
Application No. 10/214,410	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. 200.1152	:	

This is a decision on the petition filed November 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required $130 processing fee for a petition under 37 CFR 3.81(b) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GREENBERG-TRAURIG
1750 TYSONS BOULEVARD
12TH FLOOR
McLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Sang Hoon Han et al	:	
Application No. 10/214,430	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket No. 58292.010100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed October 1, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 3, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BERNARD S. KLOSOWSKI, JR.
DORITY & MANNING
ATTORNEYS AT LAW, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of	:	
LaShannon Hyder	:	
Application No. 10/214,461	:	NOTICE
Filed: August 7, 2002	:	
Attorney Docket No. PRL-10	:	

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 2875.

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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DIW Jun-06

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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JUN 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Alney K. Vallotton	:	
Application No. 10/214,479	:	ON PETITION
Filed: 31 July, 2002	:	
Atty Docket No. 0804/0K228	:	

This is a decision on the petition to withdraw the holding of abandonment filed on 27 April, 2006.

The petition is granted.

The application was held abandoned for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance and Fee(s) Due mailed on 12 September, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 7 April, 2006.

Petitioner asserts that an Fee(s) Transmittal sheet including authorization to charge the issue and publication fee(s) was timely filed by Express Mail on 29 September, 2005. In support, petitioner has provided a copy of the Fee Transmittal itemizing the filing of a check and also containing authorization to charge the issue and publication fees to counsel's deposit account. The Fee(s) Transmittal also contains Certificate of Mailing or Transmission dated 29 September, 2005, stating that the correspondence was deposited with the USPS as Express Mail, and signed by B.W. Lee. Petitioners have also provided a statement by Bruce W. Lee, counsel's assistant docketing clerk, stating that he has personal knowledge that the correspondence was mailed on the date specified on the "Express Mail Certificate". A copy of the Express Mail mailing certificate was also provided.

As petitioners have provided convincing evidence that an amendment was transmitted to the USPTO on 29 September, 2005, the

showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The issue and publication fees have been received with the petition.

The application will be forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should 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. 9

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,802,706 :
Issue Date: October 12, 2004 :
Application No. 10/214,502 : ON PETITION
Filed: August 8, 2002 :
Attorney Docket No. 263-81 N2-3459 :
For: DEVICE AND METHOD TO OPTIMIZE
COMBUSTION AND HYDROCARBONS

This is a decision on the petition under 37 CFR 1.182, filed January 6, 2005 (certificate of mailing date January 4, 2005), requesting issuance of duplicate Letters Patent for the above-identified application due to non-receipt of the original Letters Patent.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 6,802,706 on October 12, 2004. The petition and accompanying exhibits establish that the October 12, 2004 Letters Patent was received at the correspondence address of record and then later lost while in transit to applicant's representative in Italy.

Regarding fees, President Bush signed the Consolidated Appropriations Act on December 8, 2004. This Act changed many patent fees. The 37 CFR 1.182 petition fee became $400.00. Petitioner paid only $130.00 by check. Pursuant to petitioner's authorization, deposit account no. 50-1017 will be charged the balance due, or $270.00.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: Publishing Division: Attn: Krystal Paige, South Tower 8C32

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/214,502	08/08/2002	Antonio Collesan	263-081US (N2-3459)	6048

570 7590 10/03/2006

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER
BARROW, JAMES G

ART UNIT	PAPER NUMBER
3749	

DATE MAILED: 10/03/2006

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20060925

DATE MAILED:

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

Commissioner for Patents

See attached Office communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6,802,706	:	
Issue Date: October 12, 2004	:	**DECISION GRANTING**
Appl No.: 10/214,502	:	**PETITION**
Filed: August 08, 2002	:	*37 CFR 1.324*
For: Correction of Inventorship	:	
	:	
	:	
	:	

This is a decision on the petition filed November 18, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Ehud Gartenberg
Supervisory Patent Examiner
Art Unit 3749
Technology Center 3700

EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

UNITED STATES 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: September 25, 2006
TO: Certificates of Correction Branch
FROM: Ehud Gartenberg
SPE, Art Unit 3749
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,802,706 as specified on the attached Certificate.

Ehud Gartenberg

Ehud Gartenberg, SPE
Art Unit 3749

EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,802,706
Patented: October 12, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

ANGELO PORCARO, Udine, Italy

Ehud Gartenberg
Supervisory Patent Examiner
Art Unit 3749

EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R. LAWRENCE BUCKLEY
c/o THE TORO COMPANY
8111 LYNDALE AVENUE SOUTH
BLOOMINGTON, MN 55420

COPY MAILED

MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Johnson, Gerald Harry
Application No. 10/214,508
Filed: August 9, 2002
For: Method And Apparatus For Holding Bows And Arrows

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 19, 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 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. A Notice of Abandonment was mailed on February 2, 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

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

MAILED

NOV 18 2005

Director's Office
Group 3700

In re Application of
WINZELER, MICHAEL D.
Appl. No.: 10/214,512
Filed: August 08, 2002
For: FLEXIBLE HOSE
Attorney Docket Number: 1-36185

DECISION DISMISSING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed April 13, 2005. The petition is entitled a petition to the Director pursuant to 37 CFR 1.181. However, the second sentence on page 1 states that petitioner "understands that no fee is required for this Petition under 37 CFR 41.3(c) since this Petition seeks supervisory review." It should be noted that a petition filed pursuant to 37 CFR 41.3 covers petitions on matters pending before the Board (see 37 CFR 41.3(b)). Since it is clear from the record that the present application has not been passed to the Board (in fact, one of petitioner's requested actions is "to forward the Appeal to the Board"), petitioner's statement that the present petition is filed under 37 CFR 41.3(c) would appear to be an error. Therefore, the petition is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is dismissed.

First, it is noted that the present petition has been sent from an address that is not the correspondence address of record. This decision will be mailed to the current correspondence address of record. If applicants want future correspondence to be sent to a different address, a proper change of correspondence address should be filed.

A review of the record indicates that the statement of facts listed on pages 2 and 3 of the petition is essentially correct. It is also noted that the new rules governing appeals (including 37 CFR 41.37) became effective for appeal briefs filed on or after September 13, 2004. The appeal brief in the present application was filed on September 27, 2004 with a certificate of mailing dated September 23, 2004. So, the appeal brief should have been compliant with 37 CFR 41.37.

A Notification of Non-Compliant Appeal Brief was mailed to appellant on December 13, 2004. In addition to checking the first box, the examiner re-emphasized the requirement for evidence and related proceeding appendices with proper headings by explicitly stating this requirement in the other explanation section at the bottom of the form. The requirement for a concise explanation of the subject matter defined in each of the independent claims (in the instant application, claims 1 and 9) is stated on the form in box 4, which is checked by the examiner.

Appellant filed a second appeal brief on January 6, 2005 with remarks on the previous Notification of Non-Compliant Appeal Brief. In the remarks, appellant explicitly stated that they have "not included two additional pages in the Appendix that are blank, save for the terms "Evidence" and "Related Proceedings," respectively, despite the Examiner's assertion that this is a requirement... since there is no basis for requiring that useless headings be added to the Brief". The basis for this requirement is 37 CFR 41.37. If appellant was uncertain as to the requirement even after the examiner brought the requirement to appellant's attention, then appellant should have consulted the comment section of the Final Rule package published in the Federal Register Vol. 69, No. 155, which states, in part:

> One comment requests clarification as to whether appendixes as required by §§ 41.37(c)(ix-x) are necessary at all when no evidence or related proceedings exist, or whether an appendix must be included with the indication ''none.''
>
> Answer: Sections 41.37(c)(ix-x) require the appeal to contain an evidence appendix and a related proceedings appendix. If no evidence or related proceedings exist, an evidence appendix should be included with the indication ''none'' and a related proceedings appendix should be included with the indication ''none.''

Petitioner requests that "1) the Director reverse the decision and actions of the Examiner". The examiner has not rendered a decision on this case and for purposes of this decision, it will be assumed that the office actions mailed February 11, 2004 (statement of fact 2) and August 24, 2004 (statement of fact 4) are not the actions the petitioner requests to be "reversed". The Notification of Non-Compliant Appeal Brief mailed December 13, 2004 is correct and petitioner's request with respect to this action is dismissed. The Notification also states that "[t]o avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37". Therefore, the dismissal of appeal is proper and petitioner's request with respect to this action is dismissed.

Petitioner requests the Director "rule that the new Appeal Brief is in full compliance with the requirements of 37 CFR 41.37". The Appeal Brief filed January 6, 2005 is not in full compliance with requirements of 37 CFR 41.37 so petitioner's request is dismissed. Furthermore, it should be noted that the undersigned does not have authority to waive the rules pursuant to 37 CFR 1.183 as such a request is decided by the Office of Petitions.

Petitioner also requests "or in the alternative, clearly define what is required for said compliance and allow Appellant thirty days to so modify the new Appeal Brief". The Notification of Non-Compliant Appeal Brief mailed December 13, 2004 clearly defined what is required and allowed Appellant thirty days to comply. It appears that Petitioner is requesting that The Notification of Non-Compliant Appeal Brief mailed December 13, 2004 be "reversed" and then the same Notification to be remailed. This request is dismissed.

Petitioner also requests the Director to "direct the Examiner to forward the Appeal to the Board for consideration of the substantive arguments regarding patentability." This request is dismissed as appellant has not filed a compliant appeal brief.

It is noted that Petitioner correctly points out a typographical error in the action mailed March 25, 2005. Claim 7 is not an independent claim and the statement should read, "claim 9 which is a second independent claim". However, the typographical error (when it is clear from the record that claim 9 is an independent claim) does not warrant any relief.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extensions of time under 37 CFR 1.136(a) are permitted. Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137.

Richard A. Bertsch, Director
Technology Center 3700

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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Chen, et. al.	:	DECISION ON REQUEST
Application No. 10/214,524	:	TO WITHDRAW FROM
Filed: August 8, 2002	:	RECORD
Attorney Docket No. 8027-003-US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on October 24, 2005.

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

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 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 March 16, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Swey-Shen Alex Chen
6740 Nancy Ridge Road
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

COPY MAILED

JAN 16 2009

In re Application of	:	
CHEN, Swey-Shen A. et al.	:	
Application No. 10/214,524	:	DECISION ON PETITION
Filed: August 08, 2008	:	TO WITHDRAW
Attorney Docket No. **IGE1100-1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 18, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (04-08).

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SWEY-SHEN ALEX CHEN, PH.D.**
IGE THERAPEUTICS, INC.
6370 LUSK BOULEVARD, F 109
SAN DIEGO CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
CHEN, Swey-Shen A. et al.	:	
Application No. 10/214,524	:	DECISION ON PETITION
Filed: August 08, 2002	:	TO WITHDRAW
Attorney Docket No. **IGE1100-1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2009.

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

A review of the file record indicates that the power of attorney to DLA PIPER LLP (US) has been revoked by the applicant of the patent application on December 12, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SWEY-SHEN CHEN**
11533 SPRUCE RUN DRIVE
SAN DIEGO CA 92131

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH FRANCIS MURPHY
101 WEST 23RD STREET
SUITE 2367
NEW YORK, NY 10011

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MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:	
LANDAU, DAVID et al	:	
Application No. 10/214,526	:	DECISION ON PETITION
Filed: August 8, 2002	:	TO WITHDRAW
Attorney Docket No. 10544-017-999	:	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 3, 2005.

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

A review of the file record indicates that the power of attorney to customer number 29539 has been revoked by the assignee of the patent application on May 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of David Landau, et al. Application No. 10/214,526 Filed: August 8, 2002 Attorney Docket No. 28930-010	: : : : :	ON PETITION

This is a decision in response to the petition, filed January 8, 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 August 22, 2006. This decision precedes the mailing of a Notice of Abandonment. On Janaury 8, 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 $750; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2624 for consideration of the amendment filed January 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : February 16, 2007

Patent No. : 7,161,259
Inventor(s) :Hendrik Lambertus Lagerwey
Issued : January 9, 2007
Title : WIND POWER GENERATOR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction and a corrected patent under the provisions of Rule 1.322.

Accordingly, the alleged error concerning the omission of the Related Application Data from the Letters Patent resulted from applicant's failure to fully comply with 35 U.S.C. 120, in that related data was not included on the Oath/Declaration as required.

In view of the forgoing, applicants' request in this matter is hereby denied. However further consideration will be given under the provisions of Rule 1.323 upon receipt of a request for the issuance of a certificate of correction accompanied by the appropriate fee in the amount of $100.00.

Future correspondence concerning this matter should be directed to Decisions and Certificate of corrections Branch. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

In view of the forgoing, your request in this matter is hereby denied

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Richard J. Basile, Esq.
St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford, Connecticut 06905-5619

CBN/arg

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

1940 DUKE STREET
ALEXANDRIA, VIRGINIA 22314
USA

(703) 413-3000
(703) 413-2220 FACSIMILE

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PLEASE CALL US AT (703) 413-3000 IF THE MESSAGE YOU RECEIVE IS INCOMPLETE OR NOT LEGIBLE

TO	Examiner Viet Q. Nguyen (NAME)	March 24, 2005 (DATE)
	U.S. PTO (COMPANY/FIRM)	(571) 273-0224 (FAX #)
	NUMBER OF PAGES INCLUDING COVER: 13	CONFIRM FAX. ☐ YES ■ NO
FROM	Remus Fetea (NAME)	226633US2S (OUR REFERENCE)
	(703) 413-2383 (DIRECT PHONE #)	10/214,568 (YOUR REFERENCE)

MESSAGE

Dear Examiner Nguyen:

Per our earlier telephone conversation of March 24, 2005, please find transmitted herewith copies of the followings:

- Decision on the Petition (April 6, 2004)
- Date-stamped Filing Receipt (April 1, 2004)
- Papers filed April 1, 2004:
  - Request for Continued Examination (RCE) Transmittal
  - Information Disclosure Statement
  - Form PTO-1449
  - Taiwanese Office Action and English Translation
  - Petition to Withdraw from Issue under 37 C.F.R. § 1.313(c)(2)

With best regards,

R Fetea

Remus F. Fetea

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

RECEIVED: 4/8/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: BY 4/8/04
Type of Resp(s):
Due Date(s):

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ON PETITION

COURTESY COPY

In re Application of
Tomoki Higashi
Application No. 10/214,568
Filed: August 9, 2002
Attorney Docket No. 226633US2S

This is a decision on the petition, filed April 1, 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 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 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).

Dept.: E/M

OSMM&N File No. 226633US2S

By: EHK/RFF/ys

Serial No. 10/214,568

In the matter of the Application of: Tomoki HIGASHI

For: SEMICONDUCTOR MEMORY DEVICE USING MAGNETORESISTIVE EFFECT

Due Date: April 2, 2004

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

- ■ Request for Continued Examination (RCE) Transmittal
- ■ Check for $900.00
- ■ Dep. Acct. Order Form
- ■ Information Disclosure Statement
- ■ PTO-1449
- ■ Cited Reference (1)
- ■ Taiwanese Office Action and English Translation
- ■ Petition to Withdraw from Issue Under 37 C.F.R. § 1.313(c)(2)

COURTESY COPY

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

MAIL

NOV 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Marc W. Cassidy, et al.
Application No. 11/214,569
Filed: August 30, 2005
For: **METHOD FOR DETERMINING A CONTROL CHANNEL IN A TRUNKED RADIO COMMUNICATIONS SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 25, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Dwayne 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

Merek & Voorhees
673 South Washington Street
Alexandria, VA 22314

COPY MAILED

DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Roberts et al.	:	DECISION ON PETITION
Application No. 10/214,580	:	UNDER 37 CFR 1.137(b)
Filed: August 9, 2002	:	
Attorney Docket No. PA-204A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 20, 2005, for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OCT 16 2002

OFFICE OF PETITIONS

In re Application of Liao, et al. Application No. 10/214,587 Filed: August 9, 2002 Attorney Docket No. LIAO3043/EM For: METHOD FOR TISSUE CULTURE IN VITRO	:	DECISION GRANTING PETITION

This is a decision on the petition, filed September 18, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed September 11, 2002.

The application was deposited on August 9, 2002. On September 11, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 1 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 1 be accorded a filing date of August 9, 2002 on the basis that the entire specification, including allegedly missing page 1, was received in the Patent and Trademark Office (PTO) on August 9, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing August 9, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 pages of specification. A review of the application file reveals that there are 13 pages present. Page 1 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 1, was filed on August 9, 2002. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 9, 2002, using the copy of page 1 supplied with the petition.

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

E. Shirene Willis

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 1 2004

In re Application of Cooray, Nawalage, et al Serial No. 10/214640 Filed: August 9, 2002 For: HALOGEN-FREE FLAME RETARDANT INSULATING EPOXY RESIN COMPOSITION AND CIRCUIT BOARD COMPRISING INSULATION LAYER FORMED THEREOF	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313

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

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

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

Telephone inquiries should be directed to Vasu Jagannathan at (571) 272-1119 .

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

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ARMSTRONG, WESTERMAN, & HATTORI, LLP
Suite 1000
1725 K Street, N.W.
Washington, D.C. 20006

CC: Allowed Files

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 1 2004

Paper No. 10

In re Application of :
Alan Rousseau et al. :
Serial Number : 09/962,746 :
Filed : September 25, 2001 :
For: METHOD OF MAKING ELECTRET :
FIBERS :

WITHDRAWAL FROM ISSUE
37 CFR 1.313(b)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. *See* 37 CFR 1.313(b).

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner. The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Michael Colaianni at 571-272-1196.

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

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

3M Office of Intellectual Property Counsel
P.O. Box 33427
St. Paul, Minnesota 55133-3427

cc:Allowed Files, Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 10

LAW OFFICE OF STANLEY K. HILL, PLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

DEC 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Kenny THOMAS, et al.
Application No. 10/214,642
Filed: August 7, 2002
For: **OBJECT TRACKING**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed July 12, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed December 18, 2003. A Notice of Abandonment was mailed on June 28, 2004.

Petitioner asserts that a proper response was timely filed on June 18, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on June 18, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

RECEIVED

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 0 9 2001

NEEDLE & ROSENBERG

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

Paper No. 10

JACQUELINE M HUTTER
NEEDLE & ROSENBERG PC
127 PEACHTREE STREET, SUITE 1200
THE CANDLER BUILDING
ATLANTA, GA 30303

COPY MAILED

JUL 5 2001

OFFICE OF PETITIONS
A/C PATENTS

J1002 U.S. PTO
10/214659
08/07/02

In re Application of
Mahendra K. Sharma and
Linda J. Adams
Application No. 09/668,449
Filed: September 22, 2000
Attorney Docket No. 05015.0283U2
Title: LATEX FORMATION IN ALKALINE REACTIVE MEDIUM AND THEIR APPLICATIONS IN FORMING POLYESTER BLENDS

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a), filed June 14, 2001.

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

The above-identified application was filed on September 22, 2000, without an executed oath or declaration and identifying Mahendra Kumar Sharma and Linda Jane Adams, as joint inventors. Accordingly, on November 6, 2000, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. An initial petition under §1.47(a), timely filed March 13, 2001, and otherwise satisfying §1.47(a), was dismissed because the declaration submitted was not executed in compliance with 35 U.S.C. §116 and 37 C.F.R. §1.64.

The declaration filed on June 14, 2001, has been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Patricia Parson-Ball
for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

111: MAK/JMH

DOCKETED
By [signature] Date 7/9/01
Reviewed [signature] 7/9/01
Name/Date

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Date : June 2, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shunpei Yamazaki et al
Application No. :10/214,691
Filed :August 9, 2002

The above-identified application has been assigned Patent No. 6,753,577 and an issue date of June 22, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 22, 2004:

> "All reference to Patent No. 6,753,577 to Shunpei Yamazaki et al of Japan for SEMICONDUCTOR DEVICE AND METHOD OF FABRICATING SAME in the Official Gazette of June 22, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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Paper No. 15

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED

JUN 0 2 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/214,691 :
Filed: August 9, 2002 :
Attorney Docket No. 0756-7026 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 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 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 2826 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

MAILED

MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/214,691	:	DECISION GRANTING PETITION
Filed: August 9, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7026	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 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 March 18, 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 2893 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.*

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)
6719486	2004-04-13	10214698	2002-08-08	

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	/Robert M. Skolnik/	Date (YYYY-MM-DD)	2008-09-28
Name	Robert M. Skolnik	Registration Number	24688

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. 6719486
Issue Date: April 13,2004
Application No. 10214698
Filed: August 8,2002
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed September 28,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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

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

O''Melveny & Myers LLP
IP&T Calendar Department LA-13-A7
400 South Hope Street
Los Angeles, CA 90071-2899

Mail Date: 04/21/2010

Applicant	: Thomas V. Ressemann	: DECISION ON REQUEST FOR
Patent Number	: 7604612	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/214,712	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1005** 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.

ANNEX TO THE EUROPEAN SEARCH REPORT ON EUROPEAN PATENT APPLICATION NO. EP 02 01 7643

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.
The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

26-04-2004

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 5591149 A		US 5486167 A	23-01-1996
		US 5681300 A	28-10-1997
		US 6042575 A	28-03-2000
		US 6171291 B1	09-01-2001
EP 0841156 A	13-05-1998	JP 9076388 A	25-03-1997
		CA 2226485 A1	30-01-1997
		EP 0841156 A1	13-05-1998
		US 6258196 B1	10-07-2001
		CN 1190931 A	19-08-1998
		WO 9702946 A1	30-01-1997
GB 2288412 A	18-10-1995	JP 3065883 B2	17-07-2000
		JP 7292551 A	07-11-1995
		CN 1115343 A ,B	24-01-1996
		SG 30337 A1	01-06-1996
		TW 416436 Y	21-12-2000

EPO FORM P0459

For more details about this annex : see Official Journal of the European Patent Office, No. 12/82

UNITED STATES 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
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Anderson et al.	:	DECISION ON PETITION
Application No. 10/214,723	:	TO WITHDRAW
Filed: August 7, 2002	:	FROM RECORD
Attorney Docket No. 0492611-0436/MIT-9841	:	

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 15, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Brenda Herschbach Jarrell on behalf of all attorneys of record who are associated with customer No. 24280.

All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is no outstanding Office action that requires a reply.

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN E. WAGNER
LAW OFFICES OF JOHN E. WAGNER
3541 OCEAN VIEW BOULEVARD
GLENDALE, CA 91208

COPY MAILED

DEC 19 2008

OFFICE OF PETITIONS

In re Patent No. 6,769,586 :
Issue Date: August 3, 2004 :
Application No. 10/214,752 : ON PETITION
Filed: August 7, 2002 :
Attorney Docket No. 01-0941-597 :

This is a decision in response to a petition filed November 17, 2008, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Roy L. Anderson 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 on whose behalf he acts. If, Mr. Anderson desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Anderson, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This patent expired on August 3, 2008 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

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

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.

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROY ANDERSON
LAW OFFICES OF ROY ANDERSON
3541 OCEAN VIEW BLVD.
GLENDALE, CA 91208

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

MAIL

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Sangeeta Ramakrishnan et al
Application No.: 10/214,786
Filed: August 6, 2002
For: **METHODS AND APPARATUS TO IMPROVE STATISTICAL REMULTIPLEXER PERFORMANCE BY USE OF PREDICTIVE TECHNIQUES**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 5, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R.. 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P.. 402.06. 37 C.F.R.. 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, William J. Plut, is not appointed as an attorney or agent of record. For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will continue to be directed to the above-listed address unless the Office receives proper notification of a change in Power of Attorney and/or correspondence address.

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

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)
6798034	2004-09-28	10214791	2002-08-07	Digirad6798034

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott C Harris/	Date (YYYY-MM-DD)	2008-11-19
Name	Scott C Harris	Registration Number	32030

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. 6798034
Issue Date: September 28,2004
Application No. 10214791
Filed: August 7,2002
Attorney Docket No. 07402-047002

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

This is a decision on the electronic petition, filed November 19,2008 ,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 November 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

OIPE JC130
OCT 2 9 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/214,793	08/07/2002	Noriko Ohtani	SHIMIZU-07345

CONFIRMATION NO. 3804

FORMALITIES LETTER

OC000000008788174

Peter G. Carroll
MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco, CA 94105

Date Mailed: 09/13/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

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

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

OIPE JC130
OCT 2 9 2002
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. **SHIMIZU-07345**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Noriko Ohtani *et al.*		
Serial No.:	10/214,793	Group No.:	1645
Filed:	08/07/2002	Examiner:	
Entitled:	**Method Of Testing For Bronchial Asthma**		

RESPONSE TO NOTICE TO FILE MISSING PARTS

Box PCT
Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING 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: **Box PCT**, Commissioner for Patents, Washington, D.C. 20231, on **October 24, 2002**.

By: _____
Cliff Cannon-Cin

Sir or Madam:

In response to the Notice to File Missing Parts of Application -- Filing Date Granted (Form PTO-1533) mailed **September 13, 2002** (a copy of which is enclosed), applicants submit the following documents:

- Executed declaration or oath (Combined with Power of Attorney)
- an Assignment document for recording whereby the subject application and the invention disclosed therein is assigned to GENOX RESEARCH, INC., 5-1-3, Tokodai, Tsukuba-shi, Ibaraki 300-2635 Japan, JAPAN and a Recordation Form Cover Sheet -- Patents Only (Form PTO-1595)

A check in the amount of **$170.00** is enclosed herewith to cover:

$130.00 surcharge for filing missing parts of an application

$40.00 recordation fee

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. **08-1290**. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

Dated: October 24, 2002

Christine A. Lekutis
Registration No. 51,934

Please direct correspondence to:

Peter G. Carroll
Registration No. 32,837

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
415/904-6500

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 12/17/07

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/814813 Patent No 6872490 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

1795
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/2005

TO SPE OF : ART UNIT **1600(1626)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,720,432**

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Okay to enter changes to formulas as req. in c of c?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Corrections OK

YO Exam. 10/31/05

_____ **SPE** _____ **Art Unit**

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

JANSSON, SHUPE & MUNGER, LTD
245 MAIN STREET
RACINE WI 53403

COPY MAILED

SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Michael J. Ricker :DECISION ON PETITION
Application No. 10/214,833 :
Filed: August 8, 2002 :
Attorney Docket No. ECI-104RE :

This is in response to the petition under 37 CFR 1.47(b), filed August 16, 2004.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On August 16, 2004, applicant filed the present petition with a reissue application declaration by assignee, signed by David Turriff, President of EnChem, Inc. The petition states that on two separate occasions a copy of the application papers were mailed to the last-known address of the nonsigning inventor, Michael Ricker, by certified mail. Applicant asserts that Mr. Ricker received the envelopes. Proof of receipt of the envelopes is included with the present petition. Additionally, applicant attests that applicant has sufficient proprietary interest in this matter because Mr. Ricker assigned the invention to US Oil Company, Inc. on November 21, 1997. Thereafter, US Oil Company, Inc. assigned the invention to EnChem, Inc. on July 31, 2002.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and, (6) proof of irreparable damage.

Applicant lacks items (2) and (6) as set forth above.

As to item (2), the declaration does not identify the **complete** mailing address of Mr. Ricker. The Office notes that the oath or declaration must identify "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicant must submit an oath or declaration, which identifies the inventive entity, the complete mailing address and citizenship of the inventor, and is signed by Mr. Turriff on behalf of the nonsigning inventor.

As to item(6), applicant failed to provide proof of irreparable damage. See MPEP 409.03(g). A statement by applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Accordingly, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: 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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

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
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245 MAIN STREET
RACINE WI 53403

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Michael J. Ricker :DECISION ON PETITION
Application No. 10/214,833 :
Filed: August 8, 2002 :
Attorney Docket No. ECI-104RE :

This is in response to the renewed petition under 37 CFR 1.47(b), filed December 14, 2004. Applicant obtained a two-month extension of time.[1] Accordingly, the petition is filed timely.

The petition is dismissed.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On December 14, 2004, applicant filed the present petition. Applicant submitted a statement that the filing is necessary to preserve the rights of the parties. Additionally, applicant submitted a new declaration signed by "the assignee" on behalf of the non-signing inventor. However, the person signing the declaration on behalf of the nonsigning inventor failed to state in the declaration his title or position.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last

[1]The $225.00 extension of time fee will be charged to Deposit Account No. 10-0270 as authorized.

known address of the non-signing inventor; (5) proof of proprietary interest; and, (6) proof of irreparable damage.

Applicant lacks item (2) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> **Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration.** A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. **Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).**

Applicant has not presented an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. The title or position of the person signing must be stated in the declaration if signing on behalf of a corporation under 37 CFR 1.47(b).

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: 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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Application of
Michael J. Ricker
Application No. 10/214,833
Filed: August 8, 2002
For: ECI-104RE

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 7, 2005.

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 Statement of Facts of James P. Delany established that Michael J. Ricker, the non-signing inventor, was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that EnChem, Inc. has a proprietary interest in the above-identified application. Specifically, Mr. Delany stated that Mr. Ricker assigned the invention to U.S. Oil Company, Inc. on November 21, 1997. U.S. Oil Company, Inc. assigned the invention to EnChem, Inc. on July 31, 2002. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

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

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.

This matter is being referred to Technology Center Art Unit 3672.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Michael J. Ricker
663 Majestic Oak Court
De Pere, WI 54115

In re Application of
Michael J. Ricker
Application No. 10/214,833
Filed: August 8, 2002
For: SOIL SAMPLE PROCURING TOOL AND METHOD OF PREPARING SOIL SAMPLE FOR ANALYSIS

LETTER

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OFFICE OF PETITIONS

Dear Mr. Ricker:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Jansson, Shupe & Munger, LTD
245 Main Street
Raine WI 53403

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Date: 07/11/08

Patent No. : 7377074 B2
Ser. No. : 10/214,835
Inventor(s) : MAROCCO, NORBERT
Issued : 05/27/08
Title : **PULL BAR CONNECTOR FOR SHUTTERS**
Docket No. : **625.0047USU**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

LMN

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NOV - 1 2004

Paper No. 6

In re Application of	:	
Boris Rudolph *et al*	:	DECISION ON PETITION
Application No. 10/214,844	:	
Filed: August 8, 2002	:	
Attorney Docket No. 03630-P0029A	:	

This is a decision on the petition filed on September 22, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated October 20, 2003. The petition is being considered pursuant to 37 CFR 1.181, and there is no fee required for the petition.

The petition is dismissed.

The petition cannot be considered because it is not signed.

Petitioners may file a renewed petition to withdraw the holding of abandonment. No fee would be required for the renewed petition.

The application is being returned to storage as an abandoned file pending further action by petitioners.

PETITION DISMISSED.

Ethel Rollins-Cross, Director
Technology Center 3700

St. Onge Steward Johnston & Reens, LLC
986 Bedford Street
Stamford, CT 06905-5619

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WHITMYER, WESLEY
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CT 06905

7/13/07

In re Application of: Rudolf, Boris, et al Serial No.: 10/214,844 Filed: August 8, 2002 Docket: 03630-P0029A Title: POWER TOOL WITH OPTICAL CONTROL	:	Withdrawal Holding of Abandonment

This is a decision on the renewed petition filed on November 8, 2004. The petitioner requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a).

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Requirement for Restriction/Election mailed on October 20, 2003, which set a one month shortened period for reply. Notice of abandonment was mailed on September 9, 2004.

Petitioner asserts that a timely response to the Requirement for Restriction/Election was mailed to the Office on November 25, 2003. The petitioner has supplied a copy of a Petition for Extension of Time and a Response to Official Action indicating a mailing date of November 25, 2003. The petitioner has also provided a Certificate of Mailing pursuant to 37 CFR 1.8, dated November 25, 2003. Finally, the petitioner has provided a copy of a check in the amount of $110.00 that was sent with the original package of documents to cover the fee for a one-month extension of time. The copy indicates that the check was endorsed and deposited by the Office on December 3, 2003. Additionally, a payment of $110.00 was entered into the PALM system with a mailroom date of November 28, 2003.

As petitioner has provided convincing evidence that a timely reply to the Requirement for Restriction/Election was mailed to the Office on November 25, 2003, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed September 9, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3721 for appropriate action.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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/ DAC

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OIPE IAP69
SEP 29 2005
PATENT & TRADEMARK OFFICE

In re Application of
Hitoshi Endou et al
Serial No. 10/214,867
Filed: August 7, 2002
For: COMPOUND SUITABLE FOR USE AS A CATALYST OR FOR PRODUCING A CATALYST SYSTEM DERIVED FROM A BIS-PHOSPHORINANE

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

cc: Allowed Files
Drafting Branch

OIPE IAP69 SEP 29 2005 PATENT & TRADEMARK OFFICE

10/214,867 A SODIUM-INDEPENDENT SMALL NEUTRAL AMINO ACID TRANSPORTER TRANSPORTING L-AND D-AMINO ACIDS

Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Foreign Priority | Published Documents | Publication Dates | Address & Attorney/Agent

Application Number:	10/214,867	Customer Number:	-
Filing or 371 (c) Date:	08-07-2002	Status:	Notice of Appeal Filed
Application Type:	Utility	Status Date:	07-26-2005
Examiner Name:	BUNNER, BRIDGET E	Location:	ELECTRONIC
Group Art Unit:	1647	Location Date:	-
Confirmation Number:	6040	Earliest Publication No:	US 2003-0148444 A1
Attorney Docket Number:	57783 (71526)	Earliest Publication Date:	08-07-2003
Class / Subclass:	530/350	Patent Number:	-
First Named Inventor:	Hitoshi Endou , Sagamihara-shi, (JP)	Issue Date of Patent:	-
Title of Invention:	A SODIUM-INDEPENDENT SMALL NEUTRAL AMINO ACID TRANSPORTER TRANSPORTIN L-AND D-AMINO ACIDS		

OIPE IAP69 SEP 29 2005 PATENT & TRADEMARK OFFICE

EDWARDS & ANGELL, LLP	
Address:	P.O. BOX 55874 BOSTON MA 02205

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41658	CARR, KATHLEEN	617-439-4444
46608	CHACLAS, GEORGE	860-541-7720
27026	CONLIN, DAVID	617-439-4444
33860	CORLESS, PETER	617-439-4444
35487	DALEY, WILLIAM	617-439-4444
44691	GAFF, BRIAN	617-439-4444
32138	GITTEN, HOWARD	954-667-6130
42639	HARTNELL, GEORGE	617-439-4444
42639	HARTNELL, GEORGE	617-886-7300
44368	HAZZARD, LISA	617-517-5512
47647	HEUSCH, MARINA	203-353-6840
40024	HSI, JEFFREY	617-439-4444
55289	HUNTER-ENSOR, MELISSA	617-439-4444
42693	JENSEN, STEVEN	617-517-5531
33928	KITCHELL, BARBARA	203-353-6848
20622	KRAMER, BARRY	203-353-6818
32360	LAURO, PETER	617-517-5509
47739	LEAHY, AMY	203-353-6817
32264	MANSO, PETER	954-727-2600
26766	MANUS, PETER	617-517-5530
53303	MCLAREN, MARGARET	561-671-3666
26964	NEUNER, GEORGE	617-517-5538
41222	NEWMAN, RICHARD	702-270-5171
38256	O'DAY, CHRISTINE	617-517-5558
50373	PATTON, STEPHANA	617-517-5510

36984	PENNY, JOHN	617-517-5549
34901	PIFFAT, KATHRYN	617-439-4444
47001	POLLACK, BRIAN	203-975-7505
47001	POLLACK, BRIAN	914-238-3699
45053	ROOS, RICHARD	315-425-9000
41281	RUSSETT, MARK	617-517-5568
49036	SILVIA, DAVID	203-353-6839
53624	SPARKS, JONATHAN	617-439-4444
35393	TOSTI, ROBERT	617-439-4444
27840	TUCKER, DAVID	617-439-4444
35413	WOFSY, SCOTT	

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TARRYTOWN NY 10591

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OFFICE OF PETITIONS

In re Application of
Ronald Vern Schauer
Application No. 10/214,878
Filed: August 8, 2002
Attorney Docket No. 007242
USA/CPS/IBSS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed January 14, 2005.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on April 21, 2004. The final Office Action set a three (3) month shortened statutory period for reply. No extension of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 22, 2004. A Notice of Abandonment was mailed on November 17, 2004 .

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

The Request for Continued Examination (RCE), IDS and the amendment submitted with the instant petition will be forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of
Takayuki Yamagishi
Application No. 10/214,890
Filed: August 7, 2002
Attorney Docket No. ASMJP.109AUS

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed April 22, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of French Application No. 00/00.248, filed January 7, 2000.

The petition is DISMISSED.

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 in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 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 applications 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, page 200-87 (Rev. 1, Feb. 2003), last paragraph, second column.

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. 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
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By hand: Customer Window located at:
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220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (703) 308-6711[1].

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

Frances Hicks
Lead Petitions Examiner

[1]After September 27, 2004, the telephone number will be (571) 272-3226.

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OFFICE OF PETITIONS

In re Application of	:	
Takayuki Yamagishi	:	
Application No. 10/214,890	:	DECISION ON PETITION
Filed: August 7, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. ASMJP.109AUS	:	

This is a decision on the petition under 37 CFR 1.55(c), filed April 22, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of French Application No. 00/00.248, filed January 7, 2000.

The petition is DISMISSED.

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 in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 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 applications 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, page 200-87 (Rev. 1, Feb. 2003), last paragraph, second column.

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. 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:

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Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (703) 308-6711[1].

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

Frances Hicks
Lead Petitions Examiner

[1]After September 27, 2004, the telephone number will be (571) 272-3226.

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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of
Takayuki Yamagishi
Application No. 10/214,890
Filed: August 7, 2002
Attorney Docket No. ASMJP.109AUS

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed October 7, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Japan Application No. JP2001-240732, filed August 1, 2001.

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and did not

include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on August 7, 2002, which is after November 29, 2000 and within 12 months of August 1, 2001. On October 7, 2004, a supplemental Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330.00 was received on April 22, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 1763 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 Wan Laymon at (571) 272-3220.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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WILLIAM J. SAPONE, ESQ.
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVE.
BRIDGEPORT, CT 06605

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OFFICE OF PETITIONS

In re Application of	:	
Allen Richard Tierney	:	
Application No. 10/214,895	:	ON PETITION
Filed: August 7, 2002	:	
Attorney Docket No. 780/9-1711	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 26, 2004, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed January 26, 2005 indicating that the reply filed on December 22, 2004 failed to place the application in condition for allowance. Accordingly, the application became abandoned on December 27, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3635 for processing the Request for Continued Examination (RCE) under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

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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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SCHERING-PLOUGH CORPORATION
PATENT DEPARMENT (K-6-1, 1990)
2000 GALLOPING HILL RD
KENILWORTH NJ 07033-0530

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OFFICE OF PETITIONS

In re Application	:	
Kozlowski, et al.	:	
Application No. 10/214,897	:	DECISION ON APPLICATION
Filed: August 7, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. AL01381K1	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed July 25, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred forty-two (142) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On July 13, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On July 25, 2005, applicants

timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA is one hundred forty-two (142) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment of zero (0) days of PTO delay, and applicants' delays of two (2) and two (2) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and twenty-four (24) days, pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. 1.704(c)(8). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay of one hundred seventy (170) days for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[2]

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

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

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

Kery A Fries

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

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[1] Applicants filed the application for patent term adjustment prior to paying the issue fee.

[2] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (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).

FILE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/214,904	08/08/2002	Richard B. Pitbladdo	PIT-4

CONFIRMATION NO. 6203

OC000000008946342

020808
BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

Date Mailed: 10/11/2002

RECEIVED OCT 18 2002

RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

Claims, Fees, and Inventors

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

☐ The total number of claims appearing on the Filing Receipt does not include multiple dependent claims. The total fee appearing on the Filing Receipt includes the cost of multiple dependent claims that were present at the time the application was filed.

☐ The filing fee is correct. It may include additional claims fees and/or the surcharge under 37 CFR 1.16(e) for filing an oath/declaration or basic filing fee after the application filing date; or it may not reflect fees refunded to the applicant that were paid by mistake.

☐ The number of claims reflected on the filing receipt is correct. Upon review of the claims, it was found that there was a miscalculation by the applicant. This may be due to improperly presented multiple dependent claims, typographical error, misnumbering of the claims, or other oversight. An amendment may be necessary to correct the problem.

☐ The filing fee reflected on the filing receipt is correct. Applicant may have miscalculated the fees due.

☐ Applicant calculated fees as other than small entity; however, applicant asserted small entity status in the application. Therefore, fees were applied as small entity and the remainder was refunded to the applicant.

☐ The difference between the fees paid and the fees due was refunded to the applicant and will not be shown on the filing receipt.

☐ The inventor information may be truncated if the family name consists of more than 50 characters (letters and spaces combined) and if the given name consists of more than 50 characters (letters and spaces combined).

- [ ] The inventor's residence allows for up to 40 characters (letters and spaces combined).

- [ ] The inventor's residence will only include the city and state for U.S. residences or city and country for residences outside the U.S. (See MPEP 605.02).

- [ ] A petition to correct the inventorship is needed to make this change. See 37 CFR 1.48. For non-provisional applications, the petition should be directed to the Director of the examining group assigned to your application.

- [ ] Changes made after submission of an executed declaration to the inventor information other than correction of typographical errors must be submitted in the form of a substitute declaration. Change of inventorship requires a petition under 37 CFR 1.48.

- [ ] The number of drawings shown on the filing receipt reflects the number of drawing sheets submitted and is not necessarily equal to the number of figures submitted.

- [ ] The correspondence address was captured as directed by applicant on filing. If you wish correspondence to be directed otherwise, please submit a request for a change of address.

- [ ] The docket number allows a maximum of 25 characters.

- [ ] The person signing on behalf of the deceased inventor is reflected on the Filing Receipt as the legal representative.

- [X] The filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required.

Customer Service Center
Office of Initial Patent Examination
(703) 308-1202

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	: Sunanda Lakshmi Kommula	: DECISION ON REQUEST FOR
Patent Number	: 7574508	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/214,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **990** 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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JJGJR.: 08-07

Paper No: __

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SEP 04 2007

OFFICE OF PETITIONS

PLANTRONICS, INC
LEGAL/INTELLECTUAL PROPERTY DEPT
345 ENCINAL STREET
SANTA CRUZ CA 95060

In re Application of :
Claesson, et al.. :
Application No.: 10/214,944 :
Filing Date: 6 August, 2002 :
Attorney Docket No. OCTVP001X1 :

DECISION

This is a decision on the petitions filed on 8 and 13 December, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 19 May, 2006, with reply due absent an extension of time on or before 19 June, 2006;
- the application went abandoned by operation of law after midnight on 19 June, 2006;
- the Office mailed the Notice of Abandonment on 28 November, 2006;
- on 8 and 13 December, 2006, Petitioner filed the instant petitions, and averred therein, *inter alia*, non-receipt of the Office action in question, and provided therewith a copy of the report for the instant application, but not a copy of the report indicating all replies due on the due date herein as instructed in the Commentary set forth in the Manual of Patent Examining Procedure (MPEP) §711.03(c), as discussed hereinbelow.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

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).[4]

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

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§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

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.[10]

The commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the

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

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

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

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

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

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> <u>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</u> rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing required.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PLANTRONICS, INC
LEGAL/INTELLECTUAL
PROPERTY DEPT
345 ENCINAL STREET
SANTA CRUZ CA 95060

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OFFICE OF PETITIONS

In re Application of	:	
Claesson, et al..	:	
Application No.: 10/214,944	:	DECISION
Filing Date: 6 August, 2002	:	
Attorney Docket No. OCTVP001X1	:	

This is a decision on the petition filed on 28 November, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 19 May, 2006, with reply due absent an extension of time on or before 19 June, 2006.

The application went abandoned by operation of law after midnight on 19 June, 2006.

The Office mailed the Notice of Abandonment on 28 November, 2006.

On 8 and 13 December, 2006, Petitioner filed the original petitions (under 37 C.F.R. §1.181), and averred therein, *inter alia*, non-receipt of the Office action in question, and provided therewith a copy of the report for the instant application, but not a copy of the report indicating all replies due on the due date herein as instructed in the Commentary set forth in the Manual of Patent Examining Procedure (MPEP) §711.03(c)—and so the petitions were dismissed on 4 September, 2007, for failure to make the showing described in the Commentary at (MPEP) §711.03(c).

On 28 November, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an election, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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.[2],[3]

CONCLUSION

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

The instant application is released to Technology Center/AU 2626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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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[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] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SOFER & HAROUN, L.L.P.
317 Madison Avenue, Suite 910
New York NY 10017

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No.: 10/214,946
Filed: August 8, 2002
Attorney Docket No.957-004U
For: SYSTEM AND METHOD FOR CASH MANAGEMENT

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed March 15, 2004 (certificate of mailing date March 12, 2004).

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

Petitioners have shown that the non-signing inventors have either expressly or constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition and supporting exhibits establish that the inventors -- Allen, Leggo, Lindo, and Rist --were mailed the application papers, including the specification, claims and drawings, but each either failed to respond to the request that he sign the declaration or expressly refused to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Previously non-signing inventor Cohen has submitted an acceptable executed declaration.

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.

Regarding finances, it appears that petitioners paid a second $130.00 petition fee with the instant reconsideration. Only one $130.00 petition fee is required. The second $130.00 petition fee will be credited to deposit account no. 19-2825.

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEFFREY L. ALLEN
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WESTPORT, CT 06880

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No.: 10/214,946
Filed: August 8, 2002
Attorney Docket No.957-004U
For: SYSTEM AND METHOD FOR CASH MANAGEMENT

LETTER

Dear Mr. Allen:

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: SOFER & HAROUN, L.L.P.
317 Madison Avenue, Suite 910
New York NY 10017

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BEDFORD, NH 03110

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No.: 10/214,946
Filed: August 8, 2002
Attorney Docket No.957-004U
For: SYSTEM AND METHOD FOR CASH MANAGEMENT

LETTER

Dear Mr. Leggo:

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
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Office of Petitions

ATTORNEY OF RECORD: SOFER & HAROUN, L.L.P.
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New York NY 10017

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WEST ORANGE, NJ 07052

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No.: 10/214,946
Filed: August 8, 2002
Attorney Docket No.957-004U
For: SYSTEM AND METHOD FOR CASH MANAGEMENT

LETTER

Dear Mr. Rist:

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: SOFER & HAROUN, L.L.P.
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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No.: 10/214,946
Filed: August 8, 2002
Attorney Docket No.957-004U
For: SYSTEM AND METHOD FOR CASH MANAGEMENT

LETTER

Dear Mr. Lindo:

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

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Office of Petitions

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SAN JOSE CA 95120-6099

JUL 1 2 2005

In re Application of: M. Hart et al	:	
Application No. 10/214,951	:	Decision on Petition
Filed: August 7, 2002	:	
Attorney Docket No.	:	
ARC920020021US1	:	

This is a decision on the petition filed under 37 C.F.R. § 1.144 on MAY 18, 2005 to withdraw the restriction requirement of claims 30-35 and 37-123.

The petition is DENIED.

Title 37 C.F.R. § 1.144 sets forth the requirements for a Petition from the requirement for restriction.

> § 1.144 Petition from requirement for restriction.
> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

Petitioner asserts that the holding of claims 65-123 as withdrawn from consideration, is improper because the examiner has failed to provide reasoning as set forth in 37 C.F.R § 1.145.

Title 37 C.F.R § 1.145. States:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § 1.143 and 1.144.

Claims 65-123 were added with a RCE filed July 30, 2004.

According to MPEP 818.02 (a), Where claims to another invention are properly added and entered in the application before an action is given, they are treated as original claims for purposes of restriction only. The claims originally presented and acted upon by the Office on their merits determine the invention elected by an applicant in the application, and in any request for continued examination (RCE) which has been filed for the application. Subsequently presented claims to an invention other than that acted upon should be treated as provided in MPEP § 821.03.

Furthermore according to MPEP 819: The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter. Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03.

Claims 65-123 are drawn to semiconductor device. Applicant had previously elected without traverse method claims 30-41 on December 01, 2003 and cancelled non-elected device claims 1-29 by amendment on March 2, 2004.

Therefore the examiner acted properly as according to MPEP 821.03 in treating newly added claims 65-123 as being constructively elected by original presentation.

The application file will be forwarded to the Technical Support staff for Technology Center 2800 for further processing.

James Dwyer for S.G.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Harrison & Egbert
7th Floor
412 Main Street
Houston, TX 77002

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Battistella et al.	:	
Application No. 10/214,953	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket Number: 1719-42	:	

This is a decision on the petition under 37 C.F.R. 1.137(b), filed March 9, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 26, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on August 27, 2005. A Notice of Abandonment was mailed December 6, 2005.

Applicant files the instant petition and continuation application.

Having found that all requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met, this Petition is hereby **Granted**.

This application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Continuation Application, No. 11/369,200, filed March 6, 2006.

This application 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
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 8

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA, CA 92038-0573

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MAY 2 9 2003

OFFICE OF PETITIONS

In re Application of
Scott et al.
Application No. 10/214,959
Filed: August 8, 2002
Attorney Docket No. 70808.01

DECISION ON PETITION

This is a decision on the petition styled "Petition to Revive a Patent Abandoned to Meet Filing Date Requirements," filed March 19, 2003, which is properly treated as a petition under § 1.53(e)(2)[1]. This petition is being construed as a request that the above-identified application be accorded a filing date of August 8, 2002.

Application papers in the above-identified application were deposited on August 8, 2002. However, on September 18, 2002, the Office of Initial Patent Examination mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date because the application was filed without drawings. Applicants were advised that the required items were to be submitted within **TWO (2) MONTHS** of the date of the Notice or proceedings on the application will be terminated. No extensions of time for reply under 37 CFR 1.136(a) were provided for (or permitted).

In response, petitioner filed the instant petition along with an extension of time for response within the fourth month. Petitioner asserts that both an executed declaration and a single drawing page were submitted with the original application on August 8, 2002, as shown by their returned postcard. Accompanying the petition were *inter alia* copies of the postcard, a drawing sheet and the declaration.

A petition under § 1.53(e)(2), filed more than two months after the mailing of the "Notice of Incomplete Nonprovisional Application," may be dismissed as untimely without consideration on the merits. See § 1.181(f). However, given the circumstances

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[1](e) Failure to meet filing date requirements .
(2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

set forth on petition, the Commissioner's discretion will be exercised in favor of petitioner and the petition will be considered on the merits.

On the merits, petitioner's arguments are persuasive. 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 Office of Initial Patent Examination (OIPE) on August 8, 2002; and reflects the assignment of application No. 10/214,959; 2) it specifically identifies the items being filed, including "Drawings: No. Of Pages ___1____" and "Declaration for Utility or Design Patent Application," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including a drawing sheet, were filed on August 8, 2002.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 50-2274, as authorized. In addition, since extensions of time were inapplicable, the fee for an extension of time within the fourth month (then $725) has also been refunded to Deposit Account No. 50-2274.

This nonprovisional application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- **correction of the filing date to August 8, 2002**, using the application papers received in the Office on that date and the sheet of drawings resupplied on petition filed March 19, 2003.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA, CA 92038-0573

In re Application of
Scott, et al.
Application No.: 10/214,959
Filed: August 8, 2002
Attorney Docket No: 70808.01

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 31, 2006.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed June 9, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on September 10, 2005.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

As to item (1) above, Examiner Gollamudi Kishore has determined that the response filed May 31, 2006, does not place the application in condition for allowance because the composition claims were changed to apparatus claims that were not previously examined. The petition must be dismissed because of the

lack of a proper response to the final Office action. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed May 31, 2006, should be directed to Examiner Kishore.

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

By mail:

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KENYON & KENYON LLP
1500 K STREET N.W.
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WASHINGTON, DC 20005

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of

Scott, et al.

Application No. 10/214,959

Filed: August 8, 2002

Attorney Docket No. 70808.01

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed June 9, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was not received within the statutory period for reply. The application became abandoned on September 10, 2005. A petition under3 7 CFR 1.137(b) was filed on May 31, 2006, and dismissed by a decision mailed October 12, 2006.

The Request for Continued Examination filed December 11, 2006, is noted.

The application is being forwarded to Technology Center 1600, GAU 1615 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW, CA 94043-2234

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OFFICE OF PETITIONS

In re Application of	:	
J. Wallace Parce et al	:	
Application No. 10/214,961	:	DECISION GRANTING PETITION
Filed: August 8, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 100/06501	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 13, 2006, as required by the Notice of Allowance and Fee(s) Due mailed October 13, 2005. A Notice of Abandonment was mailed on February 22, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee; (2) the $1,500 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 application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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SUITE 2500
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TORONTO ON M5H 3S1 CA CANADA

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul Silverthorne, et al.	:	
Application No. 10/215,030	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. 12787-03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 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 April 19, 2007. This decision precedes the mailing of a Notice of Abandonment. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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 $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate 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.

The application is being referred to Technology Center AU 2143 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EUGENE GIERCZAK,
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P.O. BOX 1011
TORONTO, ONTARIO, CANADA M5H 3S1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Shuichi Kanno, Toshiaki Arato, :
Shinzo Ikeda, Ken Yasuda, Hisao :
Yamashita, Shigeru Azuhata, :
Shin Tamata, and Kazuyoshi Irie :
Application No. 10/215,045 : DECISION ON PETITION
Filed: August 9, 2002 :
Attorney Docket No. :
381AS/50311DV :
Title: PROCESS FOR TREATING :
FLUORINE COMPOUND-CONTAINING :
GAS :

This is a decision on the "Renewed Petition under 37 CFR §1.137(b)", which is properly treated as a renewed petition under 37 CFR 1.53(b), filed May 20, 2003, requesting that the above-identified application be accorded a filing date of August 9, 2002, with pages 3 and 5-10 of the specification as part of the original disclosure of the application.

The application was filed on August 9, 2002. However, on September 11, 2002, Initial Patent Examination Division (OIPE) mailed a notice stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without pages 3 and 5-10 of the specification.

The original petition, filed on November 8, 2002, was dismissed via a decision mailed on March 20, 2003.

Upon review of the record, the above-mentioned pages of the specification have not been located among the application papers.

However, the evidence is convincing that the application papers deposited on August 9, 2002 included pages 3 and 5-10 of the specification, and these papers were subsequently misplaced in the Office.

Therefore, the application, including pages 3 and 5-10 of the specification, was complete on filing and entitled to a filing date of August 9, 2002.

Accordingly, the petition is **GRANTED**.

The Notice mailed September 11, 2002 was sent in error. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 9, 2002, using the original application papers filed on August 9, 2002, as well as pages 3 and 5-10 of the specification submitted on November 8, 2002.

The portion of the previous decision which referred to missing *drawings* was inadvertently included in the decision. The Office regrets this error.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
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. 4

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of
Shuichi Kanno, Toshiaki Arato, Shinzo Ikeda, Ken Yasuda, Hisao Yamashita, Shigeru Azuhata, Shin Tamata, and Kazuyoshi Irie
Application No. 10/215,045
Filed: August 9, 2002
Attorney Docket No. 381AS/50311DV
Title: PROCESS FOR TREATING FLUORINE COMPOUND-CONTAINING GAS

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR §181 that a complete specification was deposited with the United States Patent and Trademark Office", which is properly treated as a petition under 37 CFR 1.53(b), filed November 8, 2002, requesting that the above-identified application be accorded a filing date of August 9, 2002, with pages 3 and 5-10 of the specification as part of the original disclosure of the application.

The application was filed on August 9, 2002. However, on September 11, 2002, Initial Patent Examination Division (OIPE) mailed a notice stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without pages 3 and 5-10 of the specification.

Petitioners allege that pages 3 and 5-10 of the specification were filed on August 9, 2002. In support, the petition includes two declaration of facts (one from an attorney of record, and one from an attorney not of record) where they attest that these pages of the specification were included on filing, as well as

set forth a detailed procedure used when filing applications. Petitioner has also submitted a copy of the return receipt postcard[1].

The argument and evidence presented are not persuasive. The PTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawings were included on filing. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The only evidence relied on to support petitioner's allegation is the memory of two (2) declarants of a routine mailing practice which occurred almost three months prior. However, petitioners' memories are not more persuasive than the PTO file.

The postcard receipt which has been submitted in this case does not contain a date stamp. As such, it cannot be relied upon as evidence that pages 3 and 5-10 of the specification were included on filing[2].

For these reasons, the petition under 37 CFR 1.53(b) is dismissed. Consequently, pages 3 and 5-10 of the specification will not be entered.

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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1 Regarding the contents of the specification, the postcard lists "Copy of specification, including 21 claims (pages 51)." It is noted that no date stamp appears on the copy of the postcard receipt submitted with the instant petition.

2 See MPEP §503.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090813

DATE : August 13, 2009

TO SPE OF : ART UNIT 3871

SUBJECT : Request for Certificate of Correction on Patent No.: 7,341,160

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:

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

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CHARLES R. GROSH
155 MERIDETH DRIVE
EUTAWVILLE, SC 29048

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Charles Reed Grosh Sr. :
Application No. 10/215,055 :
Filed: August 8, 2002 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition, filed October 21, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 24, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 25, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack items (1) and (3).

A petition to revive cannot be granted where there are outstanding requirements. In the instant case, the Information Disclosure Statement (IDS) is missing. As to item (3), Effective October 1, 2004 a Petition to Revive Unintentionally Abandoned Application Small Entity increased to $685. Petitioner submitted $665 with petition on October 21, 2004, which leaves a balance of $20. Accordingly, the petition to revive cannot be granted until the IDS and the $20 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: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By facsimile: (703) 872-9306
ATTN: Office of Petitions

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES R. GROSH
155 MERIDETH DR.
EUTAWVILLE, S.C. 29048

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles Reed Grosh	:	
Application No. 10/215,055	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 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 forwarded Technology Center 3747 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW Mar-06

ROBERT J. SCHAAP
SUITE 188
21241 VENTURA BOULEVARD
WOODLAND HILLS CA 91364

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Theodore M. Sirkin :
Application No. 10/215,079 :
Filed: 7 August, 2002 :
For: FLOW CONTROLLABLE SHOWER :
HEAD :

ON PETITION

This is a decision on the paper entitled "REQUEST TO REVIVE AN ABANDONED PATENT APPLICATION" filed on 3 March, 2006 (certificate of mailing date 7 February, 2006), which is treated as a petition to withdraw the holding of abandonment.

This application became abandoned on 25 February, 2005, for failure to file a proper reply to the Notice of Non-Compliant Amendment mailed on 24 January, 2005, which set a one (1) month shortened period for reply. On 12 December, 2005, a Notice of Abandonment was mailed.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on 24 January, 2005. In support of the allegation that the Notice was never received, petitioner has submitted a copy of two docket records for February, 2005, and stated that the Office communication was not received. The practitioner additionally states that he "[has] also had a substantial problem with regard to the Woodland Hills Post Office, which serves this office. I am aware that on several occasions we had not received mail, and I am also aware that on several occasions mail sent from this office has not been received by the intended recipient."

A review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment mailed on 24 January, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the

practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. The Notice of Non-Compliant Amendment set a one-month extendable period for reply. Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for one month from the mail date of the Notice of Non-Compliant Amendment (*i.e.*, from 24 January, 2005, up to and including, 24 February, 2005) as documentary proof of non-receipt of the Office action. With the present petition, however, the practitioner only submitted docket records for the period of February, 2005. Additionally, the statement of the practitioner, registered patent attorney Robert J. Schaap, states that "[i]n about the mid part of 1993, we also institute a third docket entry in the form of an electronic docket entry." While petitioner has provided two handwritten docket entries, a copy of the electronic docket entry has not been provided. A copy of this electronic docket entry, covering the period specified above, should also be provided with any renewed petition.

Further, petitioner has not provided a statement from the practitioner stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Lastly, with regard to petitioner's statement regarding problems with sending and receiving mail, petitioner is reminded that MPEP 711.03(c) states that the showing outlined above may not be

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

As such the application is properly held abandoned.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned 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: (571) 273-8300
Attn: Office of Petitions

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

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

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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DIW Jul-06

ROBERT J. SCHAAP
SUITE 188
21241 VENTURA BOULEVARD
WOODLAND HILLS CA 91364

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of :
Theodore M. Sirkin :
Application No. 10/215,079 :
Filed: 7 August, 2002 :
For: FLOW CONTROLLABLE SHOWER :
HEAD :

ON PETITION

This is a decision on the "RENEWED REQUEST TO REVIVE AN ABANDONED PATENT APPLICATION" filed on 30 May, 2006 (certificate of mailing date 26 May, 2006), which is treated as a renewed petition to withdraw the holding of abandonment.

This application became abandoned on 25 February, 2005, for failure to file a proper reply to the Notice of Non-Compliant Amendment mailed on 24 January, 2005, which set a one (1) month shortened period for reply. On 12 December, 2005, a Notice of Abandonment was mailed. The petition filed on 3 March, 2006, was dismissed on 27 March, 2006.

In the present petition, petitioner again requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on 24 January, 2005. In support of the allegation that the Notice was never received, petitioner has now submitted a copy of docket records for February through March, 2005, and stated that a search of the file jacket and the docket records indicates that the Office action was not received.

A review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment mailed on 24 January, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office

communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 3700 technical support staff for remailing of the Office communication mailed on 24 January, 2005. 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

UNITED STATES
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

11/18/02

Oliff and Berridge PLC
P O Box 19928
Alexandria VA 22320

Dear Applicant:

The Box PGPub replacement drawings for application number 10/215,090 received on 11/5/02 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
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT J. DEPKE
LEWIS T. STEADMAN
TREXLER, BUSHNELL, GLANGLORGI
BLACKSTONE & MARR
105 WEST ADAMS STREET, SUITE 3600
CHICAGO, IL 60603-6299

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Osaki et al.	:	
Application No. 10/215,100	:	DECISION GRANTING
Filed: August 8, 2002	:	PETITION
Attorney Docket No. 075834.00154	:	

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

The petition is **GRANTED**.

This application became abandoned February 3, 2005, for failure to timely respond to the Notice of Allowability mailed November 2, 2004, which required the filing of corrected drawings. Accordingly, a Notice of Abandonment was mailed May 5, 2005.

As the issue fee and publication fee have both already been paid, this application is being forwarded to the Publishing Division for review of the drawings shown as having been received in the PTO on November 16, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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TERRY B. McDANIEL
788 ROBERT E. LEE BLVD.
CHARLESTON SC 29412

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Herbert, et al. : DECISION ON PETITION
Application No. 10/215,103 :
Filed: August 8, 2002 :
Atty. Dkt. No.: 43225.61429USPT :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 9, 2004 for failure to timely reply to the Notice of Allowance ("Notice") mailed April 8, 2004. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed September 1, 2004.

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 present petition lacks requirements (1) and (2) set forth above.

The instant petition was received December 10, 2004. Effective December 8, 2004, large entity issue fee is $1,400.00 and small entity issue fee is $700.00. The publication fee remains $300.00. The Notice of Allowance identified the instant application as a large entity. The petition submitted herewith

would seem to imply that the entity status is now that of small entity. There is no indication that a completed PTOL-85B Issue Fee Transmittal form designating the change in entity status has been submitted. See, Pages 1 and 2 of Notice.

As to item (2), the required petition fee has not been submitted in total. The current petition fee for a small entity is $750.00.

Assuming petitioners quality for small entity status, the following fees would be required: issue fee, $700.00; publication fee, $300.00; petition fee, $750.00, for a total of $1,750.00. Petitioner has submitted a total of $1,450.00 to date.

Accordingly, any renewed petition must be accompanied by the required fees, a fee transmittal, and a completed PTOL-85B.

The correspondence address contained in the instant petition differs from the correspondence address currently of record in this application. Hence, if petitioners desire to receive future correspondence regarding this application the appropriate documentation must be submitted. Petitioners are advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: PTOL-85B

CC: TERRY B. MCDANIEL
3950 FABER PLACE DRIVE
CHARLESTON, SC 29405

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 0 9 2005

OFFICE OF PETITIONS

TERRY B.McDANIEL
8309 DYE MAKERS RIDGE
NORTH CHARLESTON SC 29418

In re Application of :
Herbert, et al. : DECISION ON PETITION
Application No. 10/215,103 :
Filed: August 8, 2002 :
Atty. Dkt. No.: 43225.61429USPT :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 9, 2004 for failure to timely reply to the Notice of Allowance ("Notice") mailed April 8, 2004. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed September 1, 2004. A petition under 37 CFR 1.137(b) was filed December 10, 2004 and dismissed February 9, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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 has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

The fees due in connection with this matter are: $750.00 required petition fee; $700.00 small entity issue fee; and $300 publication fee, or, in total, $1,750.00. On December 10, 2004, petitioners submitted $1,450.00. On March 23, 2005, petition submitted $1,750.00. Thus, petitioners have submitted $1,450.00 in excess of the fees due. Petitioners should request a refund of the excess $1,450.00 by writing to the Finance Office, Refund

Section. A copy of this decision should accompany any request for refund.

This application is directed to the Publications Division for further processing and issuance of a patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARY C BERKOWITZ
7778 S POPLAR WAY
CONTENNIAL CO 80112

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DEC 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Gary Charles Berkowitz, Dmitry	:	
Serebrennikov, Brian Michael Roe,	:	
Charles Christopher Wurtz		
Application No. 10/215,109	:	ON PETITION
Filed: August 8, 2002	:	

This is in response to petition to revive under 37 CFR 1.137(b), filed October 30, 2008.

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)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed March 17, 2008, which set a shortened statutory period for reply of three (3) months. No reply with an extension of time having been received, the application became abandoned on June 18, 2008. The Office mailed a Notice of Abandonment on October 28, 2008.

Pursuant to 37 CFR 1.33(b), papers filed in a patent application must be signed by:

> (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) **All of the applicants (§1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with §3.71 of this chapter.**

A review of the petition filed October 30, 2008 reveals that it is only signed by one of the applicants for patent, Gary Berkowitz. On renewed petition, petitioner must present a petition signed by all of the applicants for patent, or a registered attorney or agent, or an assignee.

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

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

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

Telephone inquiries concerning this decision 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

GARY C BERKOWITZ
7778 S POPLAR WAY
CONTENNIAL CO 80112

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary Charles Berkowitz, Dmitry	:	
Serebrennikov, Brian Michael Roe,	:	
Charles Christopher Wurtz		
Application No. 10/215,109	:	ON PETITION
Filed: August 8, 2002	:	

This is in response to renewed petition to revive under 37 CFR 1.137(b), filed February 4, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed March 17, 2008, which set a shortened statutory period for reply of three (3) months. No reply with an extension of time having been received, the application became abandoned on June 18, 2008. The Office mailed a Notice of Abandonment on October 28, 2008. Applicants filed a petition to revive under 37 CFR 1.137(b) on October 30, 2008. However, the petition was dismissed in a decision mailed on December 4, 2008. The petition was dismissed because it was not signed by all of the applicants for patent.

With the instant petition, applicants have submitted a power of attorney, appointing co-inventor Gary Berkowitz with power of attorney. In addition, petitioner made the proper statement of unintentional delay. The required reply in form of an Amendment was previously filed on October 17, 2008. The petition fee was previously paid on October 30, 2008.

The application is being forwarded to Group Art Unit 3627 for consideration of the Amendment, filed October 17, 2008.

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

Paper No. 12

ROBYNL L. PHILLIPS
P.O. BOX 45862
SALT LAKE CITY UT 84145

COPY MAILED

NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of
William R. Bailey et al
Application No. 10/215,111
Filed: August 8, 2002
Attorney Docket No. 15105.5.1

ON PETITION

This is a decision on the petition, filed by facsimile transmission on November 13, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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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).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111

UNITED STATES 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. 15

ROBYN L. PHILLIPS
P O BOX 45862
SALT LAKE CITY, UT 84145

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APR 21 2004

OFFICE OF PETITIONS

In re Application of	:	
William R. Bailey et al	:	
Application No. 10/215,111	:	DECISION GRANTING PETITION
Filed: August 8, 2002	:	UNDER 37 CFR 313(c)(2)
Attorney Docket No. 15105.5.1	:	

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.

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 20, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental Information Disclosure Statement.

Frances Hicks

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
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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

COPY MAILED

JUN 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Chung et al.	:	
Application No. 10/215,143	:	DECISION ON PETITION
Filed: 8 August, 2002	:	
Atty Docket No. 64,600-109	:	

This is a decision on the petition filed on 4 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.[2]

The petition is **GRANTED**.

The application became abandoned on 5 December, 2004, for failure to timely file a response to the Notice Regarding Drawings mailed on 4 November, 2004, which set a one (1) month period for reply. Notice of Abandonment was mailed on 14 March, 2004.

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

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

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

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

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

[2] It is noted that the petition was captioned for Application No. 10/215,413. The petition has now been matched with the proper application.

Receipt of the drawings filed with the present petition is acknowledged.

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.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[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), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

THE CLOROX COMPANY
P.O. Box 24305
Oakland CA 94623-1305

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JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Lee, Fritter, Jenkins, Shenoy, and Hernlem	:	
Application No.: 10/215,174	:	
Filed: August 7, 2002	:	DECISION ACCORDING
Attorney Docket No: 430.184	:	STATUS UNDER
For: SILICA GEL BASED ANIMAL LITTER	:	RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 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 September 4, 2002, indicating that petitioner neglected to file a proper oat or declaration and that surcharge of $130.00 was due, consequently. 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 several accompanying exhibits through which petitioner established that although the non-signing inventor was mailed the complete application papers (specification, abstract, claims, drawings, and assignment) the non-signing inventor declined to execute the declaration.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The petition fee of $130.00 will be charged to deposit account 03-2270.

This application will be forwarded to the Office of Initial Patent Examination for further

processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
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

Preston Gates Ellis & Rouvelas Meeds, LLP
1735 New York Avenue, NW
Suite 500
Washington, DC 20006

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AUG 1 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Shawn W. Snyder, et. al.	:	
Application No. 10/215,190	:	NOTICE
Filed: August 9, 2002	:	
Attorney Docket No. 25392.0003	:	

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

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

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

The Office acknowledges receipt of an amendment, which is considered as timely filed with a one (1) month extension of time on August 6, 2004. Accordingly, $110 for the one (1) month extension of time has been charged to petitioner's deposit account, as authorized.

This file is being forwarded to Technology Center Art Unit 2825 for review of the amendment filed August 6, 2004.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711. Inquires after September 24, 2004 should be directed to (571) 272-3226.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
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DEWEY & LEBOEUF LLP
1101 NEW YORK AVENUE, NW
WASHINGTON DC 20005

COPY MAILED
MAR 22 2010

In re Patent No. 6,916,679	:	
Issue Date: 12 July, 2005	:	
Application Number: 10/215,190	:	
Filing Date:9 August, 2002	:	ON PETITION
Attorney Docket No.: 781339.682899.001000	:	

This is a decision on the petition filed on 17 September, 2009, and properly treated as a petition pursuant to 37 C.F.R. §1.377 to accept and record a maintenance fee for the above-identified patent.

The petition is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. An extension of this time limit may be requested pursuant to 37 C.F.R. §1.136(a). The petition for reconsideration shall include an exhaustive attempt to provide the lacking item(s) noted below

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

The regulations at 37 C.F.R. §1.377 provide:

> **§ 1.377 Review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.**
> (a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Director to accept and record the maintenance fee.
> (b) Any petition under this section must be filed within two months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in § 1.17(g). The petition may

include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.
(c) Any petition filed under this section must comply with the requirements of §1.181(b) and 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.
[49 FR 34725, Aug. 31, 1984, added effective Nov. 1, 1984; para. (c) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

Petitioner has failed to satisfy the showing requirements set forth in the regulation, above.

The guidance in the Commentary at MPEP §2580 provides in pertinent part:

2580 Review of Decision Refusing to Accept and Record Payment of a Maintenance Fee Filed Prior to Expiration of Patent [R-5]

***

37 C.F.R. §1.377 provides a mechanism for review of a decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of a patent. 37 C.F.R. §1.377(a) permits a patentee who is dissatisfied with the refusal of the Office to accept and record a maintenance fee which was filed prior to the expiration of the patent to petition the Director to accept and record the maintenance fee. This petition may be used, for example, in situations where an error is present in the identifying data required by 37 C.F.R. §1.366(c) with the maintenance fee payment, i.e., either the patent number or the application number is incorrect. See MPEP §2515 and §2530. A petition under 37 C.F.R. §1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 C.F.R. §1.366(c) for the patent since no evidence would be present as to the patent on which the maintenance fee was intended to be paid. If the maintenance fee payment with an incorrect mandatory identifier was made near the end of the grace period, the patent might expire since the Office would not credit the fee to the patent. A petition under 37 C.F.R. §1.377 would not be appropriate where the patentee paid a maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number. Likewise, a petition under 37 C.F.R. §1.377 would not be

appropriate where the entire maintenance fee payment, including any necessary surcharge, was not filed prior to expiration of the patent.

Any petition filed under 37 C.F.R. §1.377 must be filed within 2 months of the action complained of, or within such other time as may be set in the action complained of. The petition must be accompanied by the proper petition fee >(37 C.F.R. §1.17(g))<. The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to have resulted from an error by the Office.

Any petition filed under 37 C.F.R. §1.377 must comply with the requirements of 37 C.F.R. §1.181(b) and must be signed by an attorney or agent registered to practice before the Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for purposes 37 C.F.R. §1.377. If the petition is signed by a person not registered to practice before the Office, the petition must indicate whether the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 C.F.R. §3.73(b) which is discussed in MPEP §324.

***

BACKGROUND

The instant patent issued on 12 July, 2005. The first maintenance fee could have been paid without a surcharge from 12 July, 2008, through 12 January, 2009, and with surcharge from 13 January, 2009, through Monday, 13 July, 2009. (Thereafter the first maintenance fee may be paid (with the surcharge for acceptance) as unintentionally delayed pursuant to 37 C.F.R. §1.378(c) from Tuesday, 14 July, 2009, for twenty four (24) months following expiration.)

On 17 September, 2009, Petitioner submitted inter alia, a petition (with fee) pursuant to 37 C.F.R. §1.377. Petitioner averred that an attempt was made to pay the first maintenance fee, and that the fee (in the form of an authorization to charge Deposit Account 04-0952 (see copy of fee submission) in the amount of $980.00 was mailed to the Office on 30 December, 2008, to the Maintenance Fee Office, Alexandria, Virginia. Petitioner averred receipt of a Notice of patent expiration mailed on 10 August, 2009.

Petitioner submitted no copy of the date-stamped receipt card to evidence Office receipt of the materials averred to have been submitted, and no statement the person signing the certificate of mailing to provide a first person account of the transaction.

Therefore, at this writing it is not clear from the record that the first maintenance fee was timely received or otherwise timely submitted—however, as indicated above, the record is incomplete.

On any resubmission, Petitioner must provide the date stamped receipt card and the statement by the person who signed the certificate of mailing on materials averred to have been timely submitted.

In the alternative, Petitioner may file a petition pursuant to 37 C.F.R. §1.378(c).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The petition under 37 C.F.R. §1.377 is **dismissed**.

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

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

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

[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).

Patent No. 6,916,679
Application Number: 10/215,190

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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THOMAS M. COESTER, ESQ.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGLERS, CA 90025-1030

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of
Dayne Sieling
Application No. 10/215,225
Filed: August 8, 2002
Attorney Docket No. 61427-5002

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 7, 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 January 23, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 3728 for further prosecution.

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

Paper No. 13

HALE & DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004

COPY MAILED
DEC 31 2003
OFFICE OF PETITIONS

In re Application of Rice et al. Application No. 10/215,249 Filed: August 9, 2002 Attorney Docket No. 103864.133US1	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 17, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on March 14, 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 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 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 April 8, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3721.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Davidson :
Application No. 10/215,266 :
Filed: August 8, 2002 :
Attorney Docket No. 333.7661USU :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 17, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 16, 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 17, 2002. A Notice of Abandonment was mailed on January 22, 2004.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.
See MPEP 711.03(c)(II).

As to (2), the petition does not include a statement that a search of the file jacket has been made.

As to (3) and (4), the petition does not discuss docket records and does not include a copy of docket records.

The Notice to File Missing Parts required the submission of the filing fee. The filing fee of $770 has been charged to petitioner's deposit account.

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

COPY MAILED

JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Davidson :
Application No. 10/215,266 :
Filed: August 8, 2002 :
Attorney Docket No. 333.7661USU :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 17, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 16, 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 17, 2002. A Notice of Abandonment was mailed on January 22, 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.

A petition fee is unnecessary for a request for reconsideration under 37 CFR 1.137(a). Therefore, the $110 fee which accompanied the instant renewed petition will be credited to petitioner's deposit account.

Petitioner requests the Office issue a new Notice to File Missing Parts. However, the fees required in the previous Notice and the declaration have been submitted. Therefore, a new Notice to File Missing Parts is unnecessary. The filing fee was charged to petitioner's deposit account per the general fee authorization in the first petition.[1]

Petitioner appears to be requesting a refund of the $110 submitted with the original petition. A fee for a petition under 37 CFR 1.137(a) in non-refundable once the merits of a petition have been considered. Since the merits of the previous petition were considered and the previous decision was dismissed, a refund of the fee would be inappropriate.

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

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[1] The previous decision stated, "The Notice to File Missing Parts required the submission of the filing fee. The filing fee of $770 has been charged to petitioner's deposit account."

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE A. STEWART III, ESQ.
BUCHANAN INGERSOLL PC
ONE OXFORD CENTER, 20TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219

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FEB 03 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
George Pollack
Application No. 10/215,303
Filed: August 6, 2002
Attorney Docket No. 103795-411-NP

This is a decision on the petition under 37 CFR 1.137(a), filed January 7, 2005, to revive the above-identified application. This decision is also on the petition filed January 7, 2005 to withdraw the holding of abandonment under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.137(a) is **DISMISSED** as involving moot issues.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned April 9, 2004 for failure to timely pay the issue fee on or before April 8, 2004. Accordingly, a Notice of Abandonment was mailed May 27, 2004.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides copies of the Notices mailed April 8, 2004 and copies of a change of address filed April 2, 2003. The address and addressee on the Notices does not match the requested change. A review of the file reveals that the April 2, 2003 change of address requested a change to the address used by Customer Number 24964. However, it appears that the USPTO inadvertently used customer number 4964. As a result, all correspondence, including the Notice of Allowance, Notice of Allowability and Notice of Abandonment was sent to an incorrect address/addressee.

According to the evidence presented on petition, the assignee revoked all prior powers of attorney and gave the power to Buchanan Ingersoll PC, but that revocation and power of attorney dated September 2, 2003 has not to date been matched with the file. Subsequently, an attorney empowered by the September 2, 2003 appointment then gave associate powers of attorney and requested an address change.

A statement by an Attorney of Record sets forth the procedure used in docketing mail received from the Patent and Trademark Office. In addition, copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received, accompany the petition. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition and a review of the file record, it is concluded that due to an error on the part of the USPTO, the Notice of Allowance was sent to the wrong address and that it was therefore never received by the proper party of record. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and since there is no need to treat the petition under the unavoidable standard of review, 37 CFR 1.137(a), the petition fee in the amount of $250.00 will be credited back to deposit account 02-4553.

Likewise, the revocation and power of attorney mailed September 2, 2003 by express mail will be made of record as well as all subsequent powers of attorney and requested changes of address.

Payment of the Issue Fee is acknowledged but since the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

The request for Patent Term Extension is acknowledged but must be in a separate paper, timely filed, with the requisite fees and pursuant to 37 CFR 1.705(b) or (d), whichever is appropriate.

This application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Blank Issue Fee Transmittal

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/05

2 Serial/Patent # 10/215,303

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	/	1/7/05	$ 250.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 250.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 02--4553

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

1.137(a) Petition not treated.
Abandonment w/drawn

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 2-3212

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 2/3/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

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(01/90)

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DUANE A. STEWART III, ESQ.
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PITTSBURGH, PA 15219

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
George Pollack
Application No. 10/215,303
Filed: August 6, 2002
Attorney Docket No. 103795-411-NP

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a), filed February 14, 2005, to refund the petition fee and issue fee paid January 7, 2005.[1]

The petition under 37 CFR 1.181(a) is **DISMISSED** as involving moot issues.

This application became abandoned April 9, 2004 for failure to timely pay the issue fee on or before April 8, 2004. Accordingly, a Notice of Abandonment was mailed May 27, 2004. A decision mailed February 3, 2005, on a petition filed under 37 CFR 1.181(b) on January 7, 2005 and in the alternative under 37 CFR 1.137(a), withdrew the holding of abandonment and dismissed as moot the unavoidable claim. The decisions were based on evidence presented that due to an error on the part of the USPTO, the Notice of Allowance was sent to the wrong address and that it was therefore never received by the proper party of record.

A review of the finance records reveal that the issue fee was credited to a suspense account on January 11, 2005, meaning that the money remains in the USPTO but is not of record, and that in accordance with the decision on petition mailed February 3, 2005, the fee for the petition under 37 CFR 1.137(a) was refunded.

Since payment of the petition fee and the issue fee is therefore not of record, this matter is being referred back to Technology Center 1751 for a re-mailing of the Notice of Allowance, Notice of Allowability and Determination of Patent Term Adjustment under 35 U.S.C. 154(b) and for a restarting of the period for reply.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] A Petition for Patent Term Adjustment also filed February 14, 2005 was dismissed in view of the decision in the instant matter.

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301 GRANT STREET
PITTSBURGH, PA 15219

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of
George Pollack
Application No. 10/215,303
Filed: August 6, 2002
Attorney Docket No. 103795-411-NP

:DECISION ON APPLICATION
FOR
:PATENT TERM ADJUSTMENT

This is a decision on the "Petition for Patent Term Adjustment" filed February 14, 2005. Applicant requests that the Initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 94 days to 486 days.

The application for patent term adjustment is **DISMISSED**.

Along with a Notice of Allowance and Notice of Allowability, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application on January 8, 2004. Applicant was advised that the patent term adjustment to date was 94 days. The application however became abandoned April 9, 2004 for failure to timely pay the issue fee on or before April 8, 2004. Accordingly, a Notice of Abandonment was mailed May 27, 2004.

In a petition filed January 7, 2005, petitioner contended that the January 8, 2004 Notices were not received. In view of the facts set forth in the petition and a review of the filed record, it was concluded that due to an error on the part of the USPTO, the Notice of Allowance was sent to the wrong address and that it was therefore never received by the proper party of record. Accordingly, the holding of abandonment was withdrawn in a decision mailed February 3, 2005. The petition fee and issue fee paid on January 7, 2005 have therefore been credited back to petitioner.

In response thereof, applicant files the instant request for reconsideration of the patent term adjustment along with an authorization to charge the fee set forth in 37 C.F.R. § 1.18(e). Applicant requests that the patent term adjustment be corrected to 486 days. Applicant contends that the patent issuing from this application is entitled to 392 more days of patent term adjustment based on the Office's error in mailing the Notice of Allowance and Notice of Allowability to an incorrect address. Applicant submits that, since the wrong address was used on the Notice of Allowance dated January 8, 2004, and never received by the applicant, the Patent Office must accrue USPTO examination delay up to the date that the decision withdrawing the holding of abandonment was mailed, February 3, 2005, which results in an addition of three

hundred ninety-two (392) daus of USPTO examination delay. Therefore, the USPTO examination delay should be adjusted to four hundred eighty-six (486) days and the total Patent Term Adjustment should be adjusted to four hundred eighty-six (486) days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 94 days is incorrect. The Office mailed a notice of allowance under section 151 on January 8, 2004, however, the Notice was not mailed to the correspondence address of record and no "corrected" notice of allowance was mailed. Under the circumstances, the mailing of the Notice on January 8, 2004 does not serve as the ending date for the period of adjustment provided for under 37 CFR § 1.702(a)(1).

However, to the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment, at the the time of the mailing of the notice of allowance, as it realtes to the Office's failure to mail the Noticeof Allowance, Notice of Allowability and Determination of Patent Term Adjustment under 35 U.S.C. 154(b) to the correct address, this decision dismisses the petition and requests that Notices and a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be re-mailed to the correct address and the period for reply be restarted.

The new Notice of Allowance will include the updated Patent Term Adjustment.

Authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged and will be charged to deposit account no. 02-4553.

Since the issue fee paid has been credited back to Petitioner and therefore is not of record, this matter is being referred back to Technology Center 1751 for a re-mailing of the Notice of Allowance, Notice of Allowability and Determination of Patent Term Adjustment under 35 U.S.C. 154(b) and for a restarting of the period for reply.

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

Karen A Ferriter for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB 27 2006

OFFICE OF PETITIONS

In re Application of
George Pollack
Application No. 10/215,303
Filed: August 6, 2002
Attorney Docket No. 103795-411-NP

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "Second Applicaton for Patent Term Adjustment Under 37 CFR § 1.705" filed October 19, 2005. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 94 days to 655 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred fifty-five (655) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 22, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is ninety-four days.

In response, applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicant requests that the patent term adjustment be corrected to six hundred fifty-five days. Applicant contends that the patent issuing from this application is entitled to more days of patent term adjustment based on the Office's error in mailing the Notice of Allowance to an incorrect address. Applicant submits that, since the wrong address was used on the Notice of Allowance dated January 8, 2004, the Patent Office must accrue USPTO examination delay up to the date that the July 22, 2005 Corrected Notice of Allowance was mailed, which results in an addition of five hundred and sixty one (561) days USPTO examination delay. Therefore, the USPTO examination delay should be adjusted to six hundred fifty five (655) days and the total Patent Term Adjustment should be adjusted to six hundred fifty five (655) days (no reduction for applicant delay).

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of ninety-four days is incorrect. The Office mailed a notice of allowance under section 151 on January 8, 2004. However, the Notice was not mailed to the correspondence address of record. Accordingly, a "corrected" notice of allowance was mailed on July 22, 2005. The record supports a conclusion that this re-mailing was due to an error on the part of the Office in mailing the first notice of allowance to applicant. Thus, the re-mailing of the notice of allowance does constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

The number of days in the period of delay beginning on October 6, 2003, to July 22, 2005, the date of mailing of the corrected notice of allowance is 655 days. See § 1.703(a)(2).

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 655 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to PUBLISHING DIVISION to be processed into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

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136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

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SEP 08 2005

OFFICE OF PETITIONS

In re Application of :
Dan Andersen : DECISION ON PETITION
Application No. 10/215,308 :
Filed: August 8, 2002 :
Atty Docket No. 1746.DAND.NP :

This is a decision on the petition filed August 12, 2005, pursuant to 37 C.F.R. § 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 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)."

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 3, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply having been filed and no extensions of time filed, the application became abandoned effective March 4, 2005. A courtesy Notice of Abandonment was mailed on June 27, 2005.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

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

The instant petition does not satisfy requirement (1) above. With this petition, petitioner submitted an amendment. However, the examiner has determined that the amendment does not place the application in condition for allowance. See enclosed courtesy Advisory Action.

The proposed reply required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law), (2) an amendment that prima facie places the application in condition for allowance, (3) the filing of a continuing application, (4) a request for continuing examination under §1.114, or (5) if applicable, a §1.129(a) submission.

A required reply must be submitted with any renewed petition if the application is to be revived.

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

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

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

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DEC 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Dan Andersen	:	DECISION ON PETITION
Application No. 10/215,308	:	
Filed: August 8, 2002	:	
Atty Docket No. 1746.DAND.NP	:	

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.137(b) filed November 14, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 3, 2004. By decision mailed September 8, 2005, the initial petition filed August 12, 2005, was dismissed. The petition did not satisfy the requirement for the reply required to the outstanding Office action.

On instant renewed petition, applicant submitted a new proposed reply. This reply does satisfy the requirement.

Technology Center AU 3727 has been advised of this decision. The application file is thereby forwarded to the AU for consideration by the examiner of the amendment submitted on petition filed November 14, 2005.

Telephone inquiries specific to this decision 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
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Alexandria, VA 22313-1450
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Paper No. 8

DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303-0961

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
John J. Dykas et al	:	
Application No. 10/215,350	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket No. 367312-101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 16, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 17, 2002.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Kam W. Law et al :
Application No. 10/215,359 :
Filed: August 9, 2002 :
Attorney Docket No. 456.01.041US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of the prior-filed provisional applications.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on August 9, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the provisional applications in the declaration filed with the application, as shown by its inclusion on the filing receipt.

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

However, petitioner should submit an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional applications or an Application Data Sheet.

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.

The examiner of Technology Center AU 1756 will consider the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-25-05

TO SPE OF : ART UNIT 3600

SUBJECT : Request for Certificate of Correction on Patent No.: 6729259

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:

SPE

3617
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-3-07

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 7108507 B2 (10/215370

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

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

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

M Bumgarner
SPE/Primary Exam.

3732
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

TIMOTHY J. OYER
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Stephen C. Rowe et al :
Application No. 10/215,390 :
Filed: August 8, 2002 :
Attorney Docket No. F00397.70065.US :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 5, 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 Petitions, the file will be forwarded to Technology Center AU 1615 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).

UNITED STATES 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.

TIMOTHY J. OYER
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Stephen C. Rowe et al :
Application No. 10/215,390 :
Filed: August 8, 2002 :
Attorney Docket No. F00397.70065.US :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 5, 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 Petitions, the file will be forwarded to Technology Center AU 1615 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 1, 2005

Natasha C. Us
Testa, Hurwitz & Thibeault
High Street Tower
125 High St.
Boston, Ma 02110

In re Application of:
Cretella et al.
Serial No: 10/215,391
Filing Date: August 8, 2002
For: METHOD AND APPARATUS FOR DOPING SEMICONDUCTORS

In response to the petition received March 12, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed and release to Technology Center 1765

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROSKAUER ROSE, LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,001,455	:	
Issue Date: February 21, 2006	:	
Application No. 10/215,391	:	NOTICE
Filed: August 8, 2002	:	
Patentee(s): Mary C. Cretella, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 26, 2006. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

JUN 14 2007

In re Application of:
WANG, LI-PENG, et al.
Serial No. 10/215,407
Filed: August 08, 2002
Docket: ITL.0816US (P14587)
Title: MANUFACTURING FILM BULK ACOUSTIC RESONATOR FILTERS

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed January 31, 2006 under 37 CFR § 1.144 requesting supervisory review of the final office action dated October 19, 2005 regarding claims withdrawn as directed to a non0elected invention.

The petition is dismissed as moot.

The examiner construed the petition as a request for reconsideration in the Office action dated April 20, 2006. In finding petitioner's points of argument persuasive, the requested relief was granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

PETITION DISMISSED AS MOOT.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS NJ 07724

COPY MAILED

MAR 17 2008

OFFICE OF PETITIONS

In re Application of
Jianjun Yu et al.
Application No. 10/215,460
Filed: August 9, 2002
Attorney Docket No. **AGERE-1APP (CHAND**

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed December 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/362,589 as set fort in the concurrently filed amendment. The petition is treated under 37 CFR 1.78(a)(6).

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.

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. ***§119(e)*** is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2613 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/215,460	08/09/2002	2613	1704	AGERE-1APP (CHAND 14-6-2)	30	4

CONFIRMATION NO. 8640

CORRECTED FILING RECEIPT

26479
STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

OC000000028809427

Date Mailed: 03/13/2008

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)

Jianjun Yu, Murray Hill, NJ;
Keisuke Kojima, Bridgewater, NJ;
Naresh Chand, Warren, NJ;

Power of Attorney:
John Pokotylo--36242
Michael Straub--36941

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/362,589 03/04/2002

Foreign Applications

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 10/215,460**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND APPARATUS FOR OPTICAL DATA TRANSMISSION OVER STANDARD FIBER

Preliminary Class

398

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 02/10/09

Patent No. : 7373089 B2
Ser. No. : 10/215,460
Inventor(s) : YU, JIANJUN
Issued : 05/13/08
Title : **METHODS AND APPARATUS FOR OPTICAL DATA TRANSMISSION OVER STANDARD FIBER**
Docket No. : **AGERE-1APP (CHAND 14-6-2)**

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 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 0 9 2003

OFFICE OF PETITIONS

DR. MICHAEL BLAINE BROOKS
SCIENCE AND APPLIED TECHNOLOGY INC.
P.O. BOX 9694
CANOGA PARK, CA 91309-0694

In re Application of	:
Knut Kongelbeck et al	:DECISION GRANTING FILING
Application No. 10/215,475	:DATE OF April 15, 2002
Filed: April 15, 2002	:
Attorney Docket No. SATINCO103	:

This is a decision on the petition filed October 18, 2002, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of April 15, 2002, rather than the presently accorded date of July 31, 2002.

Petitioners allege that the application was deposited in Express Mail service on April 15, 2002. In support, the petition is accompanied by a copy of Express Mail receipt No. ET586945131US (the same Express Mail receipt number appears on the original "Utility Patent Application Transmittal") showing a "date in" of April 15, 2002. Additionally, the other available evidence, the Internet USPS Express Mail Tracking and Delivery Confirmation, discloses that the package was deposited on April 15, 2002.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on April 15, 2002. Accordingly, the instant application is entitled to a filing date of April 15, 2002 and has been so accorded. A filing receipt with the corrected filing date will be mailed in due course.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of April 15, 2002.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

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SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Douglas M. Williams	:	
Application No. 10/215,495	:	DECISION ON PETITION
Filed: August 8, 2002	:	TO WITHDRAW
Attorney Docket No. WILLIA-D-01	:	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 2, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to PATENT LAW & VENTURE GROUP, has been revoked by the assignee of the patent application on December 7, 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
Douglas M. Williams :
Application No. 10/215,495 :
Filed: August 8, 2002 :
Attorney Docket No. 113377-002UTL :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 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 March 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) – 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 September 25, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272 - 4914.

This application is being referred to Technology Center AU 3689 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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MAR 12 2010

OFFICE OF PETITIONS

GAZDZINSKI & ASSOCIATES PC
11440 WEST BERNARDO CT
SUITE 375
SAN DIEGO CA 92127

In re
Kennedy, et al.
Application No. 10/215,500
Filed: August 12, 2002
Patent No. 6,966,440
Issued: November 22, 2005

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed January 4, 2010.

The fee deficiency submission under 37 CFR 1.28 of $1365 is hereby **accepted**.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/26/09

TO SPE OF : ART UNIT 2814 --

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/215,509 Patent No.: 7,067,905---

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

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

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: Petition dated 10/25/06 is approved. The specification and abstract of patent 7067905 (10/215509) are to be replaced with proper one. See spec. and abstract of SN No: 10/215509 filed 08/08/02

/Thao X. Le/ 2892
SPE Art Unit

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Perkins Coie LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

MAILED

JUL 0 8 2009

OFFICE OF PETITIONS

In re Joseph M. Brand :
Application No.: 10/215,509 : **DECISION**
Filed: August 8, 2002 : **GRANTING**
Patent No.: 7,067,905 : **PETITION**
Issued: June 27, 2006 :

This is a decision on the October 25, 2006 petition titled "Petition Under 37 C.F.R. § 1.182 For Reprinting Of U.S. Patent No. 7,067,905" ("the October 25, 2006 petition").

The October 25, 2006 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The October 25, 2006 petition is **granted**.

The application file is being forwarded to Ms. Mary Diggs, Office of Data Management, for issuance of a corrected patent, including the following: (1) mailing of a corrected copy to the patent owner; and (2) correction to the Full Text for U.S. Patent No. 7,067,905 in the USPTO Patent Full-Text and Image Database maintained by the Office.

The Image for U.S. Patent No. 7,067,905 in the USPTO Patent Full-Text and Image Database maintained by the Office will contain the original, incorrectly printed patent and the corrected patent in the form of a Certificate of Correction.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

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DEC 21 2004

OFFICE OF PETITIONS

In re Application of
Doron Shoham, et al.
Application No. 10/215,523
Filed: August 8, 2002
Attorney Docket No. PDC/WF/6548

ON PETITION

This is a decision on the petition, filed October 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 February 20, 2004. A Notice of Abandonment was mailed on September 10, 2004.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The Associate Power of Attorney filed October 5, 2004, has not been accepted, since the associate power of attorney practice was eliminated effective June 25, 2004. See "Revision of Power of Attorney and Assignment Practice," 69 Fed. Register 29865 (May 26, 2004). However, in accordance with 37 CFR 1.34(a), the signature of Michael A. Messina appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Messina desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 2877 for consideration of the amendment filed October 5, 2004.

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

cc: MICHAEL A. MESSINA
McDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Brenneman, Rodney	:	
Application No. 10/215,532	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. RXMDNZ00100	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 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 a Request for Continued Examination (submission under 37 CFR 1.114 previously submitted); (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 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/13/06

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/215533** Patent No.: **6855512**

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.

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: _____

/Jon P Weber/ — **SPE**

1657 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael W. Farn
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

NOV 08 2005

In re Application of:	:	
Qin Zhang et al.	:	
Serial No.: 10/215,559	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 09, 2002	:	FROM RECORD
Attorney Docket No.: **23001-06783**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 27, 2004.

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

The request meets all the above stated requirements. The request was signed by Michael W. Farn, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to Josh Moser, of Sherwood Partners, Inc., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle, at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Josh Moser
SHERWOOD PARTNERS, INC.
101 University Avenue, Suite 100
Palo Alto CA 94301

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Alexandria, VA 22313-1450
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NOV -1 2004

Paper No. 11

In re Application of	:	
George E. Gast, Jr. *et al*	:	DECISION ON PETITION
Application No. 10/215,574	:	
Filed: August 9, 2002	:	
Attorney Docket No. 18894/04841	:	

This is a decision on the petition filed on August 16, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated November 26, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did not receive the Office letter in question. In support of this allegation, petitioners have made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon the showing, it is clear this application is not technically abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. This application is being forwarded to the Head Supervisory Applications Examiner to mail the Office letter dated November 26, 2003

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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ATMI, INC.
7 COMMERCE DRIVE
DANBURY, CT 06810

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of:	:	
Peter M. Robertson	:	
Application No. 10/215,586	:	DECISION GRANTING
Filed: August 9, 2002	:	PETITION UNDER
Attorney Docket No.: 2771-526	:	37 CFR 1.47(b)

This Decision is in response to the Petition for Acceptance of Declaration and Power of Attorney Executed by Assignee on Behalf of Nonsigning Inventors Under 37 CFR § 1.47(b); Submission of Issue Fee Transmittal in Application No.[10/215,586], filed June 27, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Peter M. Robertson, refuses to join in the application.

As provided in Rule 1.47(b), 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.

The application file is being referred to Publishing Division for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Paper No. 5

BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
PO BOX 368
RIDGEFIELD CT 06877

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Kuehn, et al.	:	
Application No. 10/215,610	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. 1/1131-1-D1	:	

This is a decision on the paper titled "Petition to Accord a Timely Filing Date to a Response Under 37 C.F.R. §1.8(b)", filed February 12, 2004 (Certificate of Mailing dated February 10, 2002), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee).

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a reply in response to the "Notice to File Missing Parts of Nonprovisional Application" mailed September 18, 2002. This Notice set a shortened statutory period for reply of two months. No extensions of time under 37 CFR 1.136(a) were obtained. Applicants filed a reply on October 1, 2002. However, the reply was directed to application no. 10/215,160, **not** the above-identified application, no. 10/215,610. Accordingly, no reply having been received in the above-identified application, the application became abandoned on November 19, 2002. A Notice of Abandonment was mailed on January 30, 2004.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received in the Office, the holding of the abandonment will be withdrawn. The cover letter transmitting the declaration contained the correct inventor's name, title of the invention, filing date, attorney docket number, and Group Art Unit. In this case, this information should have been sufficient to ascertain the correct application to which the declaration belonged.

In view of the above, the holding of abandonment is **WITHDRAWN**.

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

The application is being forwarded to the Office of Initial Patent Examination for pre-examination processing, using the declaration filed on October 1, 2002 and resupplied on petition.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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DINNIN & DUNN PC
2701 CAMBRIDGE CT
SUITE 500
AUBURN HILLS MI 48326

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OFFICE OF PETITIONS

In re Application of
David P. Harrold : DECISION ON APPLICATION
Application No. 10/215,637 : FOR PATENT TERM ADJUSTMENT
Filed: August 8, 2002 :
Attorney Docket No. 5704-00203 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed August 9, 2004, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b). Applicants state that the patent term adjustment to date is zero (0) days, not eight (8) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was zero (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 6, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is eight (8) days.

The Office initially determined a patent term adjustment of eight (8) days based on an adjustment for PTO delay of eight (8) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1).

The PTO delay of eight (8) days has been found to be incorrect. An Office action was mailed on October 16, 2003. Applicant filed a response on February 17, 2004. As this was not within the three month period pursuant to 37 C.F.R. § 1.704(b), thirty-two (32) days of Applicant delay should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (0 days of PTO delay and 32 days of Applicant delay).

To the extent that this letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 C.F.R. § 1.705(b) has been refunded to Deposit Account No. 04-1131. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Karin A. Ferriter
for

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

Enclosure: Copy of adjusted PAIR calculation

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Paper No. 4

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OFFICE OF PETITIONS

CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS CA 92653

In re Application of:
Mollenauer, *et al.*
Application No. 10/215,679
Filed: August 10, 2002
Attorney Docket No. 212/413

DECISION ON PETITION

This is a decision on the August 28, 2002 petition under 37 C.F.R. §1.10(d) requesting that the above-identified application be accorded a filing date of August 9, 2002, rather than the presently accorded filing date of August 10, 2002.

THE RULE

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail."

(a)...

(b)...

(c)...

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the U.S.P.S., 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.

...

ANALYSIS

Petitioner alleges that the application was deposited in Express Mail service on August 9, 2002, but that the application was improperly noted by the post office as having been received on August 10, 2002. Petitioner notes that the certificate of mailing is dated August 9, 2002 and that his office maintains an outgoing mail log that reflects this mail date. A copy of the Express Mail label, a statement by the petitioner, a copy of the application cover sheet, and a copy of the postcard return receipt have been supplied to substantiate this argument.

This is not enough. In order to be grantable, a petition under rule 1.10(d) must be supported either by evidence from the USPS or by evidence that came into being after deposit and within one business day of deposit. Acceptable evidence that came into being within one day of deposit of the correspondence with the USPS can include a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date, and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.[1] No such support has been offered. Petitioner is encouraged to review M.P.E.P. 513 for elaboration of what is required to properly establish the mail date under 37 C.F.R. 1.10(d).

In view of the above, *this 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 C.F.R. §1.136(a) are permitted. *37 C.F.R. §1.137(d).* The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)".

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

[1] 37 C.F.R. 1.10(d), M. P. E. P. 513

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Assistant 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. 5

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OFFICE OF PETITIONS

R REAMS GOODLOE JR
10725 SE 256TH STREET
SUITE 3
KENT, WA 98031-6426

In re Application of
Casad et al.
Application No.10/215,683
Filed: August 8, 2002
Attorney Docket Number:EE3-2949-U
Title of Invention: JOINT SEALANT ADHESION INDICATOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed March 3, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on August 8, 2002, without a signed oath or declaration.

Accordingly, on September 3, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $65.00 surcharge for its late filing.

In response, on March 3, 2003, applicant submitted a $65.00 surcharge for late filing oath or declaration fee, Statement of Facts, partially executed declaration and a petition with its accompanying fee. To make timely a four month request for extension of time was submitted.

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

As to items (2), the declaration does not comply with 37 CFR 1.63. Specifically, the citizenship of the non-signing inventors has not been provided. See 37 CFR 1.63(a)(3).

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 7

R REAMS GOODLOE JR
10725 SE 256TH STREET
SUITE 3
KENT, WA 98031-6426

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OFFICE OF PETITIONS

In re Application of
Casad et al.
Application No.10/215,683
Filed: August 8, 2002
Attorney Docket Number: EE3-2949-U
Title of Invention: JOINT SEALANT ADHESION INDICATOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a), filed June 13, 2003.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

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

As to items (2), the declaration does not comply with 37 CFR 1.63. Specifically, the citizenship of the non-signing inventors has not been provided. See 37 CFR 1.63(a)(3).

Applicant has indicated he is unable to obtain the citizenship. Rule 47 applicant contends the refusal of the non-signing inventor to provide an execute the oath and declaration has resulted in litigation. However, where petitioner is able to demonstrate diligent effort to obtain the citizenship of a non-signing inventor but is nonetheless unable to determine the citizenship, petitioner may provide what to petitioner's best knowledge is the non-signing inventor's citizenship.

As for petitioner's request for suspension of action under 37 CFR 1.103, the request will not be addressed because a grantable petition under 37 CFR 1.47 petition is outstanding.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

R REAMS GOODLOE JR
10725 SE 256TH STREET
SUITE 3
KENT, WA 98031-6426

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of
Casad et al.
Application No.10/215,683
Filed: August 8, 2002
Attorney Docket Number: EE3-2949-U
Title of Invention: JOINT SEALANT ADHESION INDICATOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

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

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

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

As to items (2), the declaration does not comply with 37 CFR 1.63. Specifically, the citizenship of the non-signing inventors has not been provided. See 37 CFR 1.63(a)(3).

Although petitioner has indicated he has obtained the citizenship of non-signing inventors Huff and Herbert, petitioner has still not provided a declaration which has been executed by the signing inventor (Casad) and contains the non-signing inventors' information including their citizenship.

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

By mail:

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

By facsimile:	(703) 308-6916 (until November 28, 2003) (703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 11

R REAMS GOODLOE, JR. & R. REAMS GOODLOE, P.S.
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SUITE 102
KENT, WA 98030-5322

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Donald Casad, Daniel Huff and Dale Herbert.
Application No. 10/215,683
Filed: August 8, 2002
Attorney Docket Number: EE3-2949-U
Title of Invention: JOINT SEALANT ADHESION INDICATOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 19, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest both non-signing inventors were presented with a copy of the application papers. The facts and evidence presented sufficiently establishes that inventors Huff and Herbert refuse to execute the application papers.

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Issue Classification	Application No.	Applicant(s)	
	10/215,683	CASAD ET AL.	
	Examiner	Art Unit	
	Octavia Davis	2855	

ISSUE CLASSIFICATION

ORIGINAL		CROSS REFERENCE(S)	
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)
73	807		

INTERNATIONAL CLASSIFICATION

G 01 N 3/00

Octavia Davis 1/12/05
(Assistant Examiner) (Date)

1/14/05
(Legal Instruments Examiner) (Date)

1/15/05
EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
(Primary Examiner) (Date)

Total Claims Allowed: 20

O.G. Print Claim(s): 1

O.G. Print Fig.: 1

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
2	2		32		62		92		122		152		182
3	3		33		63		93		123		153		183
4	4		34		64		94		124		154		184
5	5		35		65		95		125		155		185
6	6		36		66		96		126		156		186
7	7		37		67		97		127		157		187
8	8		38		68		98		128		158		188
9	9		39		69		99		129		159		189
10	10		40		70		100		130		160		190
11	11		41		71		101		131		161		191
12	12		42		72		102		132		162		192
13	13		43		73		103		133		163		193
14	14		44		74		104		134		164		194
15	15		45		75		105		135		165		195
16	16		46		76		106		136		166		196
17	17		47		77		107		137		167		197
18	18		48		78		108		138		168		198
19	19		49		79		109		139		169		199
20	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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R. Reams Goodloe, Jr.
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APR 19 2006

In re Application of:
Donald F. Casad et al.
Serial No.: 10/215,683
Filed: August 8, 2002
Attorney Docket No.: EE3-2949-U

DECISION ON PETITION

This is a decision on the petition for withdrawal from issue filed on April 11, 2005 under 37 C.F.R. § 1.313(a).

The petition is DENIED.

BACKGROUND

On June 10, 2004, an Office action (a restriction requirement) was mailed to applicant. The Office action set a one month shortened statutory period for response.

On October 8, 2004, applicant filed a response (an election without traverse) together with a petition and fee for a three month extension of time.

On October 8, 2004, a Notice of Abandonment was mailed to applicant stating that the application was abandoned in view of applicant's failure to timely file a proper reply to the Office letter mailed on June 10, 2004.

On October 15, 2004, applicant filed a letter. The letter asserted that examiner called the applicant on October 4, 2004. Although the letter does not specifically state why the examiner made this call, it was apparently to inquire if applicant filed a response to the Office action of June 10, 2004. The letter indicates that during the telephone conversation of October 4, 2004, applicant told the examiner that applicant had not yet filed a response but that additional extensions of time were clearly still available. The letter also asserted that applicant called the examiner on October 12, 2004. Apparently, a voice mail was left for examiner at that time requesting that the premature Notice of Abandonment be withdrawn.

On December 2, 2004, applicant filed via facsimile transmission a petition for withdrawal of abandonment under 37 C.F.R. § 1.181.

On December 11, 2004 and December 12, 2004, entries were made in PALM indicating a Notice of Rescinded Abandonment in TCS and Mail Notice of Rescinded Abandonment, respectively. As noted in the petition for withdrawal from issue, there was never any paper mailed to applicant making the withdrawal of the holding of abandonment of record in the Image File Wrapper.

On January 18, 2005, applicant filed an Information Disclosure Statement citing references listed on two pages of form PTO/SB/08A (Substitute for form 1449).

On January 19, 2005, a Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed to applicant. Although a form PTO-892 was mailed with the Notice of Allowability which cited one of the references cited on the form PTO/SB/08A, the initialed copies of the form PTO/SB/08A were not attached to the Notice of Allowability. Thus, it was clear that the examiner had not considered all the references listed in the Information Disclosure Statement filed on January 18, 2005.

On April 11, 2005, applicant filed the aforementioned petition for withdrawal from issue under 37 C.F.R. § 1.313(a).

On April 12, 2005, applicant paid the issue fee and publication fee associated with the aforementioned Notice of Allowance and Fee(s) Due.

On February 9, 2006, a Supplemental Notice of Allowability was mailed to applicant. Copies of the aforementioned two pages of form PTO/SB/08A were mailed as an attachment to the Supplemental Notice of Allowability. The references cited on the two pages of the form were initialed by examiner indicating consideration of the references by the examiner.

CONCLUSIONS

The Notice of Abandonment mailed to applicant on October 8, 2004 was clearly premature and in error. There was no abandonment in fact because the response filed on October 8, 2004 including a petition and fee for a three month extension of time was a timely response to the Office action mailed on June 10, 2004. The Notice of Abandonment is hereby VACATED.

The USPTO erred in not mailing any paper notice to applicant signifying that the holding of abandonment was withdrawn. However, as stated above, there was no abandonment in fact and the holding of abandonment was effectively withdrawn by the entries of December 11, 2004 and December 12, 2004 into PALM. This decision serves as a formal granting of the petition to withdraw the holding of abandonment filed on December 2, 2004. This decision will also serve as a paper in the Image File Wrapper to show that there was never any abandonment in fact and the Notice of Allowance and Fee(s) Due mailed on January 19, 2005 was issued on an active, pending application.

Although the petition filed on April 11, 2005 only specifically requests withdrawal of the application from issue, the statement of reasons for the request for the withdrawal of

application notes problems with the application which infers other relief is being requested. It appears that the withdrawal of the application from issue is being requested so that these noted problems can be corrected. As indicated in the petition these problems are:

1) No paper exists in the Image File Wrapper to show that the Patent Office has issued a Notice of Allowance on an active, pending application.

2) The Image File Wrapper indicates that the Information Disclosure Statement was submitted on January 18th, rather than January 16th. As noted in the petition, the Information Disclosure Statement was entitled to a filing date of January 16, 2005 since that was the date it was mailed via Express Mail under the provisions of 37 C.F.R. § 1.10(a).

3) The Information Disclosure Statement of January 16, 2005 was not considered by the examiner as of the date the petition was filed.

As noted above, this decision will serve as a paper in the Image File Wrapper to show that the holding of abandonment was withdrawn and the Notice of Allowance and Fee(s) Due was issued on an active, pending application.

The date of the Information Disclosure has been changed in the Image File Wrapper to indicate that the Information Disclosure Statement was filed on January 16, 2005.

Finally, as noted above, a Supplemental Notice of Allowability was mailed on February 9, 2006 indicating that the references cited in the Information Disclosure Statement have been considered by the examiner.

Since all the reasons for the withdrawal of the application from issue have been eliminated, there is no longer any reason to withdraw the application from issue. Accordingly, the petition is DENIED and the application will continue to be processed into a U.S. Patent.

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

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 5

Natan Epstein, Esq.
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11377 West Olympic Boulevard
Los Angeles CA 90064

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
David M. Lamensdorf
Application No.: 10/215,690
Filed: August 9, 2002
For: Information Distribution System for Improved Response to Safety and Security Incidents

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed February 10, 2004 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. [emphasis added]

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 as originally filed provide a description of potential scenarios, including that of a terrorist attack, which would require rapid deployment of public safety and security resources. Responsive to said scenario, e.g., said terrorist attack, applicant proposes the use of a PDA which will act as a local repeater/communications origination point. The PDA could connect to different communication systems and to a variety of sensors, for the

deployment of information to a variety of destinations. The reason supporting the petition describes a system that will counter terrorism by "..improved collection and distribution of information at incident locations for more effective response by authorities and agencies charged with dealing with such incidents". Further steps would be required to actually offset or nullify terrorism. According to the invention, there either must already have been an "incident" or specific information would have to have been pre-monitored for an event, for the dissemination of information As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600

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Natan Epstein, Esq.
Law Offices of Natan Epstein
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11377 West Olympic Boulevard
Los Angeles, CA 90064

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of David M. Lamensdorf Application No. 10/215,690 Filed: August 9, 2002 Attorney Docket No. DE023	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on May 21, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the final Office action mailed August 26, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee and an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2618.

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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THE LAW OFFICE OF KIRK D. WILLIAMS
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DENVER CO 80239-0425

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:
Panigrahy et al.	: DECISION ON APPLICATION
Application No. 10/215,697	: FOR
Filed: August 10, 2002	: PATENT TERM ADJUSTMENT
Atty. Dkt. No. 51604	:

This is a decision on the "REQUEST FOR REINSTATEMENT OF REDUCED PATENT TERM ADJUSTMENT (PTA) PURSUANT TO 37 CFR 1.705(b)," filed on March 25, 2008. Applicants request that the initial determination of patent term adjustment be corrected from one thousand one hundred eight (1108) days to one thousand two hundred ninety (1290) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of mailing of the Notice of Allowance is TWELVE HUNDRED NINETY (1290) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 4, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that that the patent term adjustment to date was 1108 days. The instant application for patent term adjustment was timely filed.[1] The period of adjustment was 1169 days of PTO delay and 61 days of applicant delay.

Applicants assert entitlement to additional patent term adjustment for Office delay because the Office action mailed on December 22, 2006 was subsequently vacated, and a new Office action was mailed on June 22, 2007. The specific basis for applicants' assertion is that since the Office action mailed on December 22, 2006, was mailed in error, and that a corrected Office action was mailed on June 22, 2007, the patent term

[1] PALM Records indicate that the issue fee was paid on March 25, 2008.

adjustment for office delay is fourteen (14) months and 1351 days from the date the application was filed until the mailing of the Office action mailed on June 22, 2007.

Upon review, applicants' assertion is correct. Since the Office action mailed on December 22, 2006, was vacated, and a new Office action was mailed on June 22, 2007, the period of adjustment under 35 U.S.C. § 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1) is the period beginning the day after the date that is 14 months after the date the application was filed, August 10, 2002, and ending on the date of mailing of the Office action mailed on June 22, 2007, or 1351 days. Using the June 22, 2007 mailing date for the first Office action, the period of adjustment for Office delay is corrected from 1169 days to 1351 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is TWELVE HUNDRED NINETY (1290) days (1351 days of PTO delay, reduced by 61 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PALM Calculation

PALM INTRANET

Day : Monday
Date: 9/8/2008
Time: 21:04:28

PTA Calculations for Application: 10/215697			
Application Filing Date:	08/10/2002	PTO Delay (PTO):	1169
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	1290
PTO Delay Adjustment:	182		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	09/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	1351		
64	09/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1169	
56	03/04/2008	MAIL NOTICE OF ALLOWANCE			
55	02/28/2008	ISSUE REVISION COMPLETED			
54	02/28/2008	DOCUMENT VERIFICATION			
53	02/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	02/25/2008	NOTICE OF ALLOWABILITY			
41	11/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	11/22/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
39	11/22/2007	NEW OR ADDITIONAL DRAWING FILED			
38	01/17/2008	DATE FORWARDED TO EXAMINER			
37	11/22/2007	RESPONSE AFTER NON-FINAL ACTION		61	33
36	11/22/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
35	11/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	11/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	06/22/2007	MAIL NON-FINAL REJECTION			
32	06/20/2007	NON-FINAL REJECTION			
31	06/20/2007	MAIL NOTICE OF WITHDRAWN ACTION			
30	06/20/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
29	01/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

28	01/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	05/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	12/22/2006	MAIL NON-FINAL REJECTION	1169		-1
25	12/20/2006	NON-FINAL REJECTION			
23	02/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	03/17/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	03/17/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	02/20/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	12/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	12/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	10/03/2006	TRANSFER INQUIRY TO GAU			
16	09/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	08/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
11.7	02/24/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
11	02/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9.7	03/17/2003	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
9	03/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8.7	03/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7.7	02/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	10/09/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	09/10/2002	APPLICATION DISPATCHED FROM OIPE			

4	09/06/2002	APPLICATION IS NOW COMPLETE			
2	08/20/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/10/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LAW OFFICE OF ANDREI D POPOVICI, P.C.
4020 MOORPARK AVE.
SUITE 101
SAN JOSE CA 95117

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JUL 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,093,094 :
Issue Date: 08-15-2006 :
Application No. 10/215,705 : NOTICE
Filed: 08-09-2002 :
Attorney Docket No. QUA-104 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 3, 2007.

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**. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Chiang et al. :
Application No. 10/215,711 : ON PETITION
Filed: August 8, 2002 :
Attorney Docket No. PA 2110US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Restriction Requirement mailed on March 17, 2003, which set a one-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on April 18, 2003. A Notice of Abandonment was mailed on November 6, 2003.

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

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 and 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.

The file is being forwarded to Technology Center 1762.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Brian Ogonowsky
2635 N. First Street, Suite 223
San Jose, CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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OFFICE OF PETITIONS

In re Application of :
Paul Sampedro, et al. :
Application No. 10/215,712 : ON PETITION
Filed: August 9, 2002 :
Attorney Docket No. 990432 :

This is in response to the petition Under 37 CFR 1.47(a), filed December 16, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

Petitioner states that a letter requesting Mr. Brandos, the non-signing inventor, sign the Combined Declaration and Power of Attorney for this application was delivered August 19, 2002 at 12:50 pm. A second letter, requesting the same as the first, was delivered on October 1, 2002 at 4:45 pm. Petitioner has provided copies of the aforementioned letters, both of which state "[e]nclosed are a Combined Declaration and Power of Attorney and an Assignment related to this application." However, there was no mention that application papers were being sent to the non-signing inventor in these letters.

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Although it is obvious that Mr. Brandos received the declaration and assignment, it is unclear whether Mr. Brandos 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. Brandos 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 that 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 Express Mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By First Class Mail:	United States Patent and Trademark Office P. O. Box 2327, Mail Stop DAC Arlington, VA 22202
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

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Paper No. 7

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Paul Sampedro, et al.	:	
Application No. 10/215,712	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. 990432	:	

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 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 Hicks

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

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

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OFFICE OF PETITIONS

In re Application of :
Olin CALVIN et al. :
Application No. 10/215,718 : ON PETITION
Filed: August 9, 2002 :
Attorney Docket No. VTN-0624 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 23, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 22, 2004 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 1722 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

18 November 2004

The Law Office of Kirk D. Williams
1234 S. Ogden Street
Denver, CO 80210

In re Application of	:	
Eatherton et al	:	
Application No. 10/215,719	:	DECISION ON PETITION UNDER
Filed: August 10, 2002	:	37 CFR 1.48(a)
Attorney Docket No. 81689	:	

This is a decision on a December 2, 2002 petition under 37 CFR 1.48(a), requesting correction of inventorship and on the papers filed concurrently in support thereof.

The 37 CFR 1.48(a) petition to correct inventorship is Granted.

In view of the papers filed 2 December 2002, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a).

The inventorship of this application has been changed by adding the previously unnamed persons as inventors of this application:

Dileep Kumar Devireddy
Bhushan Mangesh Kanekar
Venkateshwar Rao Pullela.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Christian P. Chace
Examiner, Art Unit 2187
Technology Center 2100
US Patent Office
571.272.4190

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THE LAW OFFICE OF KIRK D. WILLIAMS
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DENVER CO 80210

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OFFICE OF PETITIONS

In re Application of	:	
William N. Eatherton et al	:	
Application No. 10/215,719	:	ON PETITION
Filed: August 10, 2002	:	
Attorney Docket No. 81689	:	

This is a decision on the petition, filed January 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 August 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Further, application is encouraged to note 37 CFR 1.34(c), where a separate paper is required for each distinct subject matter.

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

The examiner of Technology Center AU 2187 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).

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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

In re Application :
Caplan, et al. :
Application No. 10/215,744 : PATENT TERM ADJUSTMENT
Filed: August 9, 2002 :
Dkt. No.: SHPR-01048USD SRM/DJB :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed December 29, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 154 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals the Office errantly entered April 19, 2004 as the date a reply to the restriction required was filed rather than November 10, 2003, the date the response was initially received as indicated on the copy of the stamped and dated postcard evidencing receipt of the response by the Office. Thus, at the time of allowance, there was no failure to engage in reasonable efforts to conclude prosecution.

Thus, an adjustment of 154 days under 37 CFR 1.702(a)(2) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began March 11, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, and ended August 11, 2004, the date of mailing of non-final Office action.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 154 days as argued by applicants.

The required $200.00 application fee has been charged to Deposit Account 06-1325.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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PENG CHEN
MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DR
SUITE 500
SAN DIEGO, CA 92130-2332

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APR 10 2003

TECH CENTER 1600/2900

In re Application of
Thomas L. Cantor
Application No. 09/323,606
Filed: June 2, 1999
Attorney Docket Number:
532212000900

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2002 (Certificate of Mailing dated April 15, 2002, to revive the above-identified application. The delay in treating this petition is regretted.

This above-identified application became abandoned for failure to timely and properly reply to the non-final Office Action mailed on November 28, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time having been obtained[1], the above identified application became abandoned on March 1, 2001. A Notice of Abandonment was mailed on June 28, 2001.

Having found that all requirements for the filing of a grantable petition under 37 CFR 1.137(b) have been met, this Petition is hereby **granted**.

Deposit account No. 03-1952 has been charged the small entity petition fee, $640.00, as authorized in the instant petition. No extension of time fee has been charged.

This application is being returned to Technology Center AU 1653 for processing of the Amendment, Information Disclosure Statement ("IDS") and Sequence Listing, filed with the instant petition on April 19, 2002.

Telephone inquiries concerning this matter should be directed to The undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

No Docketing Required
Reviewed by Docketing
Initials: NOW

[1] Any extension of time must be obtained prior to the maximum extendable period for a reply. In this instance, the maximum extendable period for reply was May 28, 2001 (three months to respond to the Office action, extendable for an additional three months.

12/3/02

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Paper No.

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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DEC 16 2008

In re Application of Thomas L. Cantor Application No. 10/215,770 Filed: August 9, 2002 Attorney Docket No. 532212000220 Title: PARATHYROID HORMONE ANTAGONISTS AND USES THEREOF	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(a)

This is a decision on the petition filed November 26, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed February 7, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received.[1] Accordingly, the above-identified application became abandoned on May 8, 2008. A notice of abandonment was mailed on October 7, 2008.

1 It is noted that an information disclosure statement (IDS) was received on February 15, 2008.

THE APPLICABLE STANDARD

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[2]
>
> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[3]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[4]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[5]

The burden of showing the cause of the delay is on the person seeking to revive the application.[6]

> "[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

The general question asked by the Office is: "[d]id petitioner act as a reasonable and prudent person in relation to his most important business?"[8]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[9]

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.[10]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[11]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[12]

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.33 sets forth, *in pertinent part*:

> (a)(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the

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7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
8 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).
9 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
10 In re Mattullath, 38 App. D.C. at (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).
11 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(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);

...

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address.

APPLICATION OF THE STANDARD TO THE PRESENT SET OF FACTS

With this petition, Petitioner has included, *inter alia*, the petition fee, an amendment, a notice of appeal along with the associated fee, and a statement of facts.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[13] Accordingly, since the $555 extension of time submitted with the petition on November 26, 2008 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account, as authorized in the petition for extension of time.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to 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 was unavoidable, 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.

13 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Petitioner has met requirements (1) - (3) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement, Petitioner has alleged that both the final Office action and the notice of abandonment were mailed to an outdated address, and neither mailing was received.

Petitioner has further indicated that a change of address was submitted to the Office on November 7, 2007. The electronic file has been reviewed, and it is clear that this Change of Correspondence Address was received on November 21, 2007, but was not entered. It is further noted that this request was executed by an attorney of record, pursuant to 37 C.F.R. § 1.33.

Consequently, it is clear that both of the aforementioned communications were mailed to an outdated address.

The Change of Correspondence Address, received on November 21, 2007, has been entered and made of record.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the final Office action was not received. Therefore, Petitioner has established that the entire period of delay was unavoidable.

Regarding the after-final amendment that was filed concurrently with this petition, the Examiner has considered this amendment, and has determined that it fails to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

The Notice of Appeal filed on November 26, 2008, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the mailing date of this decision.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the notice of appeal, which was concurrently submitted with this petition, can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[14] All other inquiries

---

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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/215,770	Applicant(s) CANTOR, THOMAS L.	
	Examiner ANISH GUPTA	Art Unit 1654	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 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 *26 November 2008*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *46-49,79,88-93,95-98,100-108,111,114 and 118-123*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Anish Gupta/
Primary Examiner, Art Unit 1654

Continuation of 3. NOTE: The amendment filed, 11-26-08, would raise new 112 Second paragrpah issues with respect to claim 97. Independent claim 46 has been amended to recite specific PTH antagonists. Claim 97, which depends on claim 88 and 46, recite PTH antagonists that do not conform to the PTH antagonist for claim 46. Note that all of the PTH antagonists in claim 46 terminate at position 84. However, those recited in claim 97 do not. Thus, claim 97 does not further limit the base claim.

Claim 95 seems to be a duplicate since all of the PTH antagonist claimed end at position 84.
Claim 188 depends on a canceled claim. .

Continuation of 11. does NOT place the application in condition for allowance because: Since the amendment after final has not been entered and Applicants response is premised upon entry of the amendment, Applicants response does not effectively overcome the rejection. .

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

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OFFICE OF PETITIONS

In re Application of
Yutaka Hasegawa, et al.
Application No. 10/215,795
Filed: August 8, 2002
Attorney Docket No.: 2552-000012

ON PETITION

This is a decision on the petition, filed December 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 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 2837 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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United States Patent and Trademark Office
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OFFICE OF PETITIONS

RUDOLPH J. BUCHEL, JR.
JONES, DAY, REAVIS & POGUE
P.O. BOX 660623
DALLAS TX 75266-0623

In re Application of

BOAZ, John
Application No. 10/215,797
Filed: August 09, 2002
Attorney Docket No. **175980-600001**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 09, 2007.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOHN BOAZ**
6005 BRACKNELL
ALLEN, TX 75002

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OFFICE OF PETITIONS

RUDOLPH J. BUCHEL, JR.
JONES, DAY, REAVIS & POGUE
P.O. BOX 660623
DALLAS TX 75266-0623

In re Application of

BOAZ, John
Application No. 10/215,797
Filed: August 09, 2002
Attorney Docket No. **175980-600001**

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 21, 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 Paul Schrier on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor John Boaz at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2753.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHN BOAZ**
6005 BRACKNELL DRIVE
ALLEN, TX 75002

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Paper No. None

HARNESS, DICKEY & PIERCE, P.L.C.
7700 BONHOMME
SUITE 400
ST LOUIS MO 63105

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Steven P. Pulaski et al. :
Application No. 10/215,816 :
Filed: August 9, 2002 :
Attorney Docket Number: :
3474/1US :
Title: METHOD FOR THE TREATMENT :
AND PREVENTION OF PAIN AND :
INFLAMMATION WITH GLUCOSAMINE :
AND A CYCLOOXYGENASE-2 :
SELECTIVE INHIBITOR AND :
COMPOSITIONS THEREFOR :

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

This is a decision on the petition filed June 7, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 27, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions 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.

time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on January 19, 2006.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a filing which is intended to constitute a continuation of the present application, along with the filing, examination, and search fees. It is noted that a terminal disclaimer is not necessary.

As such, the present petition under 37 C.F.R. §1.137(b) is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuing application.

The Office of Initial Patent Examination will be made aware of this decision, so that the papers which were submitted with the present petition may be separated from the present electronic file, and an application number can be assigned to the continuation application which was submitted concurrently with the present petition on June 7, 2006.

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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having

been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

cc: Philip B. Polster, II
P.O. Box 1027
Chesterfield, Missouri 63006

---

2 See 37 CFR 10.18(b); cf. 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).

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

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Group 3600

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500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

Paper No. 3

In re application of
Allen P. Wade
Application No.10/215827
Filed: August 9, 2002
For: HINGE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on October 15, 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.

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**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 8-6-03

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Leviton, et al.
Application No. 10/215,835
Filed: August 8, 2002

For: VOICE COMMUNICATION WITH SIMULATED SPEECH DATA

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 3, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

SYMANTEC/ FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/20/2010

Applicant	: Dan'l Leviton	: DECISION ON REQUEST FOR
Patent Number	: 7593387	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/215,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1588** 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

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

In re Application of	:
Martin Schrager	: DECISION ON APPLICATION
Application No. 10/215,872	: FOR PATENT TERM
Filed: August 9, 2002	: ADJUSTMENT
Attorney Docket No. 7355-1	:

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Period," filed February 21, 2006, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicant requests that the initial determination of patent term adjustment be corrected from zero (0) days to five hundred forty-seven days (547).

The application for patent term adjustment is GRANTED.

The Office has updated the PTA screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is five hundred forty-seven (547) days. A copy of the updated PAIR screen, showing the correct determination is enclosed.

BACKGROUND

On January 23, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 0 days.

In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment with the payment of the fee set forth in 37 CFR 1.18(e). Applicant requests that the patent term adjustment be corrected to 547 days. The basis for this correction is 37 CFR 1.702(a)(1). Applicants contend that the patent term should be adjusted because the application was filed August 9, 2002, and the first notification received by the Applicant was in the form of an Office action mailed by the USPTO on April 8, 2005, fourteen months and 547 days after the application filing date. Applicant further states that there were no circumstances in the

[1] PALM records indicate that the issue fee payment was received on April 14, 2006.

prosecution of the application, which constitute failure to engage in reasonable efforts to conclude processing or examination.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. § 154(b)(1)(A)(i) provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after the date on which an application was filed under section 111(a) of this title; or
(ii) the date on which an international application fulfilled the requirements of section 371 of this title;

37 CFR § 1.702 provides that:

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

37 CFR § 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C 371and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

37 CFR § 1.704(a) provides that:

The period of adjustment of the term of a patent under § 1.703(a) through (e) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (processing or examination) of the application.

OPINION

Applicant's argument and evidence have been considered, in light of the application history, and it has been determined that the initial period of adjustment pursuant to § 1.702(a)(1) was incorrect. The record reflects that the application was filed on August 9, 2002, yet the first notification under 35 U.S.C. § 132 in the form of a non-final Office was not mailed until April 8, 2005—14 months and 547 days after the application was filed. A review of the application history did not reveal any applicant delay within the meaning of § 1.704(a). Accordingly, pursuant to 37 CFR § 1.703, the correct patent term adjustment at the time of mailing of the Notice of Allowance is five hundred forty-seven (547) days.

CONCLUSION

In view thereof, the petition is GRANTED.

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 Publications for timely issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded[2]).

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

---

[2] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Day : Wednesday

PALM INTRANET

Date: 5/24/2006
Time: 14:06:30

PTA Calculations for Application: 10/215872			
Application Filing Date:	08/09/2002	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	547
PTO Delay Adjustment:	547		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
30	05/24/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	547		
23	01/23/2006	MAIL NOTICE OF ALLOWANCE			
22	12/27/2005	ISSUE REVISION COMPLETED			
21	12/27/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
20	12/27/2005	NOTICE OF ALLOWABILITY			
19	12/07/2005	DATE FORWARDED TO EXAMINER			
18	12/02/2005	AMENDMENT AFTER FINAL REJECTION			
17	09/23/2005	CORRESPONDENCE ADDRESS CHANGE			
16	09/22/2005	MAIL FINAL REJECTION (PTOL - 326)			
15	09/19/2005	FINAL REJECTION			
14	07/13/2005	DATE FORWARDED TO EXAMINER			
13	07/08/2005	RESPONSE AFTER NON-FINAL ACTION			
12	04/08/2005	MAIL NON-FINAL REJECTION			
10	04/04/2005	NON-FINAL REJECTION			
9	12/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	06/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
7	01/09/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	11/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	10/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	09/05/2002	APPLICATION DISPATCHED FROM OIPE			
3	09/04/2002	APPLICATION IS NOW COMPLETE			
2	08/20/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/09/2002	INITIAL EXAM TEAM NN			

OIPE JC95
OCT 2 9 2002
PATENT & TRADEMARK OFFICE

RECEIVED
OCT 3 1 2002
TECH CENTER 1600/2900

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:)
)
ADAIR)
)
Serial No.: 10/215,881)
)
Filed: August 8, 2002)
)
Atty. File No.: 7018-28-CIP3)
)
For: "METHOD OF USING METALO-)
PORPHYRINS FOR TREATMENT OF)
ARTERIOSCLEROTIC LESIONS")

PETITION TO MAKE SPECIAL
UNDER RULE 1.102(c)

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON 10/24/02.

Christine Jacquet
Christine Jacquet

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir/Madam:

The Applicant hereby petitions to make the above-identified application special under 37 C.F.R. §1.102(c). According to this rule, this petition may be filed without a fee because the basis for this petition is the Applicant's age.

Attached with this petition is Applicant's Declaration indicating that Applicant is 65 years of age, or older.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: _____

Brent P. Johnson
Registration No. 38,031
1560 Broadway, Suite 1200
Denver, CO 80202-5141
(303) 863-9700

Date: 10/24/02

J:\7018\-28\-cip3\Age Petition transmittal.wpd

FROM OIPE JC95 OCT 2 9 2002 PATENT & TRADEMARK OFFICE

RECEIVED OCT 3 1 2002 TECH CENTER 1600/2900

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:	Group Art Unit:
ADAIR	Examiner:
Serial No.: 10/215,881	DECLARATION ACCOMPANYING PETITION UNDER 37 CFR §1.102
Filed: August 8, 2002	
Atty. File No.: 7018-28-CIP3	
For: METHOD OF USING METALO-PORPHYRINS FOR TREATMENT OF ARTERIOSCLEROTIC LESIONS"	

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF EDWIN L. ADAIR

I, Edwin L. Adair, hereby declare that, as of the filing date of the above-identified application, I am 65 years of age or older.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed by me on Oct. 23, 2002.

Respectfully submitted,

Edwin L. Adair

Edwin L. Adair

J:\7018\-28\-cip3\declaration accompanying petition.wpd

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREW D STOVER
BRINKS HOFER GILSON & LIONE
NBC TOWER - SUITE 3600
455 NORTH CITYFRONT PLAZA DRIVE
CHICAGO IL 60611-5599

COPY MAILED

JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of	
JoAnn Brooks	: DECISION ON APPLICATION
Application No. 10/215,906	: FOR PATENT TERM ADJUSTMENT
Filed: August 8, 2002	:
Attorney Docket No. 659/1581	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed April 28, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On February 25, 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 eighty-five (85) days.

The Office initially determined a patent term adjustment of eighty-five (85) days based on an adjustment for PTO delay of one hundred fifty-five (155) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delays of seventy (70) days pursuant to 35 U.S.C.

154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments of 151 and 70 days have been reviewed and found to be correct. It is true that Applicant filed a Notice of Appeal on February 14, 2005, after Applicant filed an amendment on January 18, 2005. However, as the amendment placed the application in condition for allowance, the Notice of Appeal is not considered to be failure to engage under 37 C.F.R. § 1.704(c)(8).

While the Office thanks Applicant for her good faith and candor, no error in Applicant's favor could be found.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Karin A Ferriter
for

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

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

JJGJR.: 11-04

Paper No: __

ROBERT NICK
PO BOX 3156
LAGUNA HILLS CA 92654

COPY MAILED

NOV 08 2004

OFFICE OF PETITIONS

In re Application of
Lopatinsky :
Application No. 10/215,939 :
Filing Date: 9 August, 2002
Attorney Docket No. ARS 02/810 :

This is a decision on the petition filed on 8 September, 2004, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a).

There is no indication that Petitioner herein ever was empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37

C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) 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. §1.181";

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 2 January, 2004 (the January 2004 Notice), with reply due under a non-extendable deadline on or before 2 April, 2004;
- the Office mailed a Notice of Abandonment on 14 May, 2004;
- with the instant petition and fee Petitioner filed a reply to the January 2004 Notice in the form of the Issue and Publication Fees, however, Petitioner's only showing as to unavoidable delay is a statement, unsupported by appropriate documentation (e.g., tax or court filings), that the assignee, Advanced Rotary Systems, LLC, was insolvent.

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]

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[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has filed the petition and fee requirements, but has made no showing of unavoidable delay. As indicated above, formal filings such as tax returns and petitions seeking protection under federal bankruptcy law would comprise such a showing.

---

regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

CONCLUSION

In the absence of the proper reply, the instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

ALTERNATIVE VENUE

Absent the documentary evidence suggested above, Petitioner likely will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Petitioner already has satisfied the reply requirement.

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

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

By mail: Commissioner for Patents[8]
Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

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

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

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

cc:
Edward Lopatinsky
Vice President
Advanced Rotary Systems LLC
5450 Complex St./#313
San Diego, CA 92123

UNITED STATES 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. 011505

Rober Nick
PO Box 3156
Laguna Hills, CA 92654

FEB - 2 2005

In re Application of:	:	
Edward Lopathsky	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/215,939	:	FROM RECORD
Filed: August 09, 2002	:	
Attorney Docket No.: **ARS 02/810**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 23, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to Edward Lopatinsky was filed on December 30, 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 Lissi Marquis at (571) 272-1596.

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

cc: Edward Lopathsky
Advanced Rotary Systems
5450 Complex St. #313
San Diego, CA 92123

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

JJGJR.: 02-05

Paper No: __

EDWARD LOPATINSKY
5450 COMPLEX ST. #313
SAN DIEGO CA 92123

COPY MAILED

FEB 11 2005

OFFICE OF PETITIONS

In re Application of
Lopatinsky :
Application No. 10/215,939 :
Filing Date: 9 August, 2002
Attorney Docket No. ARS 02/810 :

This is a decision on the petition filed on 30 December, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 2 January, 2004 (the January 2004 Notice), with reply due under a non-extendable deadline on or before 2 April, 2004;
- the Office mailed a Notice of Abandonment on 14 May, 2004;
- Petitioner's original petition under 37 C.F.R. §1.137(a), with fee and reply to the January 2004 Notice in the form of the Issue and Publication Fees, was dismissed on 8 November, 2004, for failing to satisfy the showing as to unavoidable delay;
- Petitioner now pleads unintentional delay, makes the statement in support, and, as noted, previously has satisfied the "reply" requirements of the regulation.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, the statement of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of the regulation.

---

[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.

CONCLUSION

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

The instant file is released to Publications Branch to be processed into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA CA 95052

In re Application of	:	
Some	:	DECISION
Application No.: 10/215,943	:	
Filing Date: 8 August, 2002	:	
Attorney Docket No. 5987 USA/PDC/WF/OR	:	

This is a decision on the petition filed on 6 October, 2006, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 5 May, 2006, with reply due under a non-extendable deadline on or before 7 August, 2006;

- the application went abandoned by operation of law after midnight 7 August, 2006;

- the Office mailed a Notice of Abandonment on 13 September, 2006;

- on 5 March, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and further states that he has reviewed/searched his file and his docket records and has not found the Notice or a docket reference thereto, and provides in support of his statement his office records including docketing papers, and the Notice in question for the instant application does not appear in those papers.

Notably, 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 immediate and 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, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

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

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

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

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to 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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented 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

---

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

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

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

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the 13 September, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing, including the re-mailing of the Notice of Allowance/Allowability and Fees Due with a new period of reply, in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) 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

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 31 2007

In re Patent No. JAEGER, EDUARD A.
Issue Date: September 5, 2006
Appl No.: 10/215,946
Filed: August 10, 2002
For: Glove Having Molded Rubber Palm Pattern With a Portion that Rolls Over Fingertips

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 18, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
Technology Center 3700

IRVING KESCHNER
21535 HAWTHORNE BOULEVARD
SUITE 385
TORRANCE, CA 90503

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,100,212
Patented: September 5, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Eduard A. Jaeger
Eric A. Jaeger

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765

UNITED STATES 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: January 30, 2007
TO: Certificates of Correction Branch
FROM: Gary L. Welch
SPE, Art Unit 3765
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,100,212 as specified on the attached Certificate.

Gary L. Welch, SPE
Art Unit 3765

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 10 2005

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

Biotechnology Group
658 Marsolan Avenue
Solana Beach, CA 92075

Paper No. 13

In re Application of Steve Dimmer et al Serial No. : 10/215,963 Filed : August 8, 2002 For : Method and Apparatus for Reducing Electroporation-Mediated Muscle Reaction and Pain Response	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed via facsimile transmission April 19, 2004, to review the holding of abandonment mailed February 17, 2004, for failure to respond to the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed September 2, 2003. There is no fee required for this petition. It is noted that the original request found in the file was incomplete and therefore, a new complete request was requested and received December 23, 2004.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The requests, filed April 19, 2004 and December 23, 2004, include all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Notice of Allowability as well as the Notice of Allowance and Fee(s) Due.

Summary: Holding of Abandonment Withdrawn.

Esther M Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/01/26/05

PN

11-06-02

MP$

Express Mail Label No.: EV139503956US
Date of Deposit: November 5, 2002

OIPE JC135 NOV 0 5 2002 PATENT & TRADEMARK OFFICE

Attorney Docket No. 23239-501CIP1

OIPE JC135 NOV 0 6 2002 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Martin Stanton, *et al.*		
SERIAL NUMBER :	10/215,982	EXAMINER:	Not Yet Assigned
FILING DATE :	August 9, 2002	ART UNIT:	1634
FOR :	NUCLEIC ACID SENSOR MOLECULES AND METHODS OF USING SAME		

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL LETTER

Transmitted herewith for filing in the above-referenced patent application are the following documents:

1. Copy of Notice to File Missing Parts of Nonprovisional Application (2 pgs.);
2. Response to Notice to File Missing Parts (1 pg.);
3. Check No. 14572 in the amount of $65.00 to cover Missing Parts fee;
4. Combined Declaration and Power of Attorney for Patent Application (5 pgs.); and
5. Return postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at 617-542-6000, Boston, Massachusetts.

The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 23239-501CIP1. A duplicate copy of this transmittal letter is enclosed herewith.

Respectfully submitted,

Date: November 5, 2002

for: Heidi A Eckacker B.Ds. 45,409

Ivor R. Elrifi, Reg. No. 39,529
Attorney/Agent for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

TRA 1730134v1

Express Mail Label No.: EV139503956US
Date of Deposit: November 5, 2002

OIPE JC135 NOV 0 6 2002 PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NO.: 23239-501CIP1

OIPE JC135 NOV 0 5 2002 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Martin Stanton, *et al.*		
SERIAL NUMBER:	10/215,982	EXAMINER:	Not Yet Assigned
FILING DATE:	August 9, 2002	ART UNIT:	1634
TITLE:	NUCLEIC ACID SENSOR MOLECULES AND METHODS OF USING SAME		

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

In response to the Notice To File Missing Parts of Nonprovisional Application mailed September 10, 2002, Applicants submit herein an executed Combined Declaration and Power of Attorney form, payment of the surcharge of $65.00 (#14572) as set forth in 37 C.F.R. §1.16(e), and a copy of the Notice to File Missing Parts of Nonprovisional Application.

Please charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 23230-501CIP1.

Respectfully submitted,

Dated: November 5, 2002

Heidi A Eckerling R No. 45,409

Ivor R. Elrifi, Reg. No. 39,529
Attorney for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

TRA 1730153v1

Express Mail Label No: EV139 50395
Date of Deposit: November 5, 2002

OIPE JC135
NOV 0 5 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
10/215,982	08/09/2002	Martin Stanton	23239-501 CIP1

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111

OIPE JC135
NOV 0 5 2002
PATENT & TRADEMARK OFFICE
MAIL ROOM SCANNED

CONFIRMATION NO. 2015
FORMALITIES LETTER
OC000000008754654

Date Mailed: 09/10/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

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

Ahmed

11/07/2002 MBERHE 00000024 10215982
01 FC:2051 65.00 OP

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

Paper No. 9

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, STE 1700
ONE FREEDOM SQUARE-RESTON
TOWN CENTER
RESTON, VA 20190-5061

COPY MAILED

JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Michaels et al.	:	
Application No. 10/215,989	:	
Filed: August 9, 2002	:	
Attorney Docket No.	:	
BAR 028 N2	:	

This is a decision on the Petition under 37 CFR 1.182, filed January 8, 2004, to expedite a decision in a petition filed under 37 CFR 1.78(a)(3), filed herewith.

The petition is **granted**.

A decision on the petition filed under 37 CFR 1.78(a)(3) has been rendered and is awaiting supervisory review.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, STE 1700
ONE FREEDOM SQUARE-RESTON
TOWN CENTER
RESTON, VA 20190-5061

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Michaels et al.	:	
Application No. 10/215,989	:	
Filed: August 9, 2002	:	
Attorney Docket No.	:	
BAR 028 N2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. § 365(c) for the benefit of priority to prior-filed International Application PCT/GB94/01295, filed June 15, 1994.

This Petition is hereby **granted**.

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

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

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(2) the surcharge set forth in § 1.17(t); and

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

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

The instant pending application was filed on August 9, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed International application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed International application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

This application is being forwarded to Technology Center Art Unit 2685 ~~2865~~ for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of

priority to the prior-filed nonprovisional and International applications.

Telephone inquiries concerning this matter should be directed to petitions attorney Derek L. Woods at (703) 305-0014.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100, 777 - 6TH STREET, NW
WASHINGTON DC 20001

In re Application of	:	
Wayne David MICHAELS, et al	:	
Application No. 10/215,989	:	DECISION ON PETITION
Filed: August 9, 2002	:	TO WITHDRAW
Attorney Docket No. BTGI-003/02US	:	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 19, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Assignee has changed, the new Assignee has new counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT O. GROOVER III
GROOVER & ASSOCIATES
ONE GALLERIA TOWER, #1950
DALLAS, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROSSI & ASSOCIATES
P.O. BOX 826
ASHBURN, VA 20146-0826

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Mitsunori Ochi :
Application No. 10/216,027 :
Filed: August 9, 2002 :
Attorney Docket No. YAMA:046 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed June 17, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
John C. Porcari et al
Application No. 10/216,031
Filed: August 9, 2002
For: PORTAL VALUE INDICATOR FRAMEWORK AND TOOL

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B), the reason "transfer to new counsel", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 10/21/04

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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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS MO 63102-2740

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Choi, Harrison	:	
Application No. 10/216,032	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. 23937-178	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 12, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 for 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 17 2003

OFFICE OF PETITIONS

Applicant: Burgin et al.
Appl. No.: 10/216,052
Filing Date: August 8, 2002
Title: THERAPEUTIC COMPOSITIONS AND SCREENING METHODS RELATING TO 3' -TYROSYL-DNA-PHOSPHODIESTERASE
Attorney Docket No.: 66733-030
Pub. No.: US 2003/0105053 A1
Pub. Date: June 5, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on July 3, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication omitted Figure 3, which should be sheet 3 of 12 in the drawings.

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 published application a copy of Figure 3, which is sheet 3 of 12 drawings in the patent application publication.

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

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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).

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

By mail to: 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 1645 to await further examination in due course.

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

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

Enclosure: Copy of page 4 of the published application, which includes Figure 3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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NOV 13 2003
OFFICE OF PETITIONS

In re Application of Marcus Grober et al. Application No. 10/216,081 Filed: August 9, 2002 Attorney Docket No. 0102874-00009 Title: METHODS AND APPARATUS FOR LOW OVERHEAD ENHANCEMENT OF WEB PAGE AND MARKUP LANGUAGE PRESENTATIONS	DECISION ON PETITION UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on September 2, 2003[1], pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[2];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on March 28, 2003. However, the United States 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.

1 On September 30, 2003 and November 6, 2003, supplements to this petition were submitted via facsimile transmission.

2 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On March 31, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the international filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application under a multilateral international agreement that requires publication of applications 18 months after filing.

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

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

Petitioner has submitted the notification of an international filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

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

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

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

Encl.

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

Withrow & Terranova P.L.L.C.
100 Regency Forest Drive
Suite 160
Cary, NC 27518

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of

Joel B. Linsky et al.
Application No. 10/216,082
Filed: August 8, 2002
Attorney Docket No. SW-034-PAP

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 15, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***transfer of responsibility***, 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: **Qualcomm Incorporated**
5775 Morehouse Drive
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 04 2009

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Linsky et al.	:	
Application No. 10/216,082	:	ON PETITION
Filed: August 8, 2002	:	
Attorney Docket No. 071202	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) (previously submitted on February 12, 2009) and an Amendment (previously submitted on January 15, 2008), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2416 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed February 12, 2009.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/08/2010

Applicant	: Joel B. Linsky	: DECISION ON REQUEST FOR
Patent Number	: 7643463	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/216,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1526** 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

Edward Sherman, Esq.
3554 Round Barn Blvd., Suite 303
Santa Rosa, CA 95403

OCT 1 8 2005

In re Application of:	:	
Mueller et al.	:	
Serial No.: 10/216,088	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: August 9, 2002	:	
Attorney Docket No.: **02/109**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 13, 2004.

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

The request meets all the above stated requirements. The request was signed by Edward Sherman, on behalf of himself and all the attorneys/agents of customer number 30480. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.
All future communications from the Office will be directed to Joan Mueller, at the below 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: Joan Mueller
Waveworx Inc.
2431 Mar East St.
Tiburon, CA 94920-1203

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

SEP - 1 2004

In re Application of PATEL ET AL.
Appl. No.: 10/216,090
Filed: August 09, 2002
For: CELL EQUALIZING CIRCUIT

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Richard K. Seidel
Director
Patent Examining Technology Center 2800

RENNER, OTTO, BOISSELLE & SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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ALEXANDRIA, VA 22313-1450
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Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue
19th Floor
Cleveland, OH 44115

MAILED

JUN 0 5 2005

Technology Center 2100

In re Application of: Patel, et al.
Application No. 10/216,090
Attorney Docket No. DYOUP0235US
Filed: August 9, 2002
For: CELL EQUALIZING CIRCUIT

SUA SPONTE
RECISION OF NOTICE OF ABANDONMENT

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on October 12, 2004. The notice incorrectly indicated that the instant application was being held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee(s) due, mailed on June 7, 2004. However, a Notice of Withdrawal from Issue, under 37 CFR §1.313, was mailed to Applicant on September 1, 2004. Thus, the Notice of Withdrawal obviated the need for payment of the issue fee(s) due on September 7, 2004.

In view of these facts, the abandonment of the application was clearly in error and is hereby rescinded.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to the tech. support staff to mail the office action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian L. Johnson at (571) 272-3595.

Stewart Levy, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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Commissioner for Patents
United States Patent and Trademark Office
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B.JEFFERSON BOGGS
BINGHAM McCUTCHEN, LLP
2020 K Street, NW
Washington DC 20006

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,308,775 :
Issue Date: December 18, 2007 :
Application No. 10/216,092 :
Filed: August 9, 2002 :
Attorney Docket No. :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 7, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 24, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

This application matured into Patent No. 7,308,775 on December 18, 2007. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Eldad Zeira	:	
Application No.: 10/216,120	:	DECISION ON PETITION
Filed: August 09, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: I-2-0204.1US	:	
For: METHOD OF USING A MOBILE UNIT	:	
TO AUTONOMOUSLY DETERMINE A	:	
SERVING CELL	:	

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed February 27, 2006.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee and publication fees in a timely manner in reply to the Notice of Allowance mailed September 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on December 12, 2005.

On February 27, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) petition fee; (2) the required statement of unintentional delay; and (3) the required in the form of the payment of the issue and publication fees. Accordingly, the issue and publication fees payment are accepted as having been unintentionally delayed.

The application is being referred to the Office of Publications

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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ONE LIBERTY PLACE
46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Bertrand Le Bourdonnec et al	:	
Application No. 10/216,158	:	NOTICE
Filed: August 8, 2002	:	
Attorney Docket No. ADOL-0512	:	

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.

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

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OFFICE OF PETITIONS

GENENTECH Inc.
1 DNA Way
South San Francisco CA 94080

In re Application of
Goddard et al.
Application No. 10/216,168
Filed: August 9, 2002

: DECISION GRANTING-IN PART PTA

This letter is in response to APPLICANTS' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on October 27, 2006 requesting that the Office adust the PTA determination at the time of the notice of allowance from a determination of five hundred and sixteen days to days to a determination of 598 days.

The letter submitted by Patentees is **GRANTED IN PART.** The Office will add additional PTA to the determination at the time of the mailing of the notice of allowance and such determination will be adjusted to a determination of five hundred and eighty-four (584) days. The Office will adjust the PTA calculation to reflect this determination.

Applicants assert that they are entitled to a determination of 598 days at the time of the mailing of the notice of allowance. Applicants assert that the Office delayed 655 days under 37 CFR 1.702(a)(1). Applicants assert that they delayed by a period of 57 days under 37 CFR 1.704)(b) for the submission of the response filed on December 21, 2005. Applicants dispute the reduction of patent term of eighty-two days for the supplemental response filed on March 13, 2006. Applicants assert that the supplemental response was expressly requested by the examiner and therefore is not a reduction pursuant to 37 CFR 1.704(c)(8).

Applicants' arguments are persuasive to the extent herein indicated. Applicants arguments are persuasive as it relates to the supplemental reduction pursuant to 37 CFR 1.704(c)(8). The record reflects that the examiner in an interview summary of March 8, 2006 expressly states that the supplemental affidavit was submitted at his request. Accordingly, the reduction of eighty-two days is improper. However, the Office notes that USPTO failed to reduce the PTA determination by fourteen (14) days for the submission of a supplemental IDS on May 22, 2006 after the RCE submission on May 8, 2006. The Office further reviewed the IDS submission of May 22, 2006 and noticed that applicants did not expressly invoke the safe harbor provision of 1.704(d). Accordingly, the USPTO assumes that applicants cannot make the requirements of the statement. Overall, the correct amount of PTA at the time of the mailing of the Notice of Allowance is 584 (665-57-14=584) days.

The Office notes that this determination does not include any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b). Moreover, this determination does not include any reductions to patent term adjustment under 37 CFR 1.704(c)(10). These determinations will be included in the final

[1]Issue fee was paid on October 27, 2006.

PTA determination that is mailed to applicants in the Issue notification letter and displayed in PAIR.

The Office has assessed the $200.00 fee. No additional fees are required in determining this application for PTA.

This applications is being forwarded to the Office of Patent Publication for a prompt issuance of the patent.

Any questions related to this decision can be addressed to Kery Fries at 571-272-7757.

Kery A Fries

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

cc: PAIR calculation

Day : Thursday
Date: 12/7/2006

PALM INTRANET

Time: 11:21:52

PTA Calculations for Application: 10/216168			
Application Filing Date:	08/09/2002	PTO Delay (PTO):	655
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	139
Post-Issue Petitions:	0	Total PTA (days):	584
PTO Delay Adjustment:	68		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	12/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		14	
78	12/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	82		
67	08/23/2006	MAIL NOTICE OF ALLOWANCE			
66	08/21/2006	ISSUE REVISION COMPLETED			
65	08/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	08/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
63	08/21/2006	NOTICE OF ALLOWABILITY			
62	05/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	05/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	07/25/2006	CORRESPONDENCE ADDRESS CHANGE			
59	05/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	06/19/2006	DATE FORWARDED TO EXAMINER			
57	05/08/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
56	06/19/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
55	05/22/2006	REFERENCE CAPTURE ON IDS			
54	05/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	05/08/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	03/29/2006	SEQUENCE FORWARDED TO PUBS ON TAPE			
51	03/24/2006	EXPORT TO INITIAL DATA CAPTURE			
50	03/20/2006	MAIL NOTICE OF ALLOWANCE			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

49	03/17/2006	COMPLETED			
48	03/17/2006	ISSUE REVISION COMPLETED			
47	03/17/2006	NOTICE OF ALLOWABILITY			
46	03/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
44	12/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	03/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
41	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
40	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
39	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
38	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
37	03/15/2006	DATE FORWARDED TO EXAMINER			
36	03/13/2006	SUPPLEMENTAL RESPONSE		82	27
35	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
34	03/15/2006	DATE FORWARDED TO EXAMINER			
33	03/13/2006	SUPPLEMENTAL RESPONSE			
32	12/21/2005	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
31	12/21/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
30	12/21/2005	REFERENCE CAPTURE ON IDS			
29	12/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	01/05/2006	DATE FORWARDED TO EXAMINER			
27	12/21/2005	RESPONSE AFTER NON-FINAL ACTION		57	25
26	12/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/25/2005	MAIL NON-FINAL REJECTION	655		-1
24	07/22/2005	NON-FINAL REJECTION			
23	05/02/2005	MISCELLANEOUS INCOMING LETTER			
22	03/31/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

21	03/31/2005	CORRESPONDENCE ADDRESS CHANGE			
20	04/01/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	09/09/2002	PRELIMINARY AMENDMENT			
18	08/09/2002	PRELIMINARY AMENDMENT			
17	03/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	09/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	08/27/2004	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
14	08/27/2004	RECEIPT OF ACKNOWLEDGMENT LETTER			
13	03/18/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
12	01/16/2004	CORRESPONDENCE ADDRESS CHANGE			
11	01/16/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
10	10/03/2003	AUTO REFERRED BY PALM PRE EXAM			
9	11/01/2002	APPLICATION DISPATCHED FROM OIPE			
8	10/31/2002	APPLICATION IS NOW COMPLETE			
7	10/15/2002	CLEARED BY L&R (LARS)			
6	10/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	10/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	08/23/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	08/09/2002	INITIAL EXAM TEAM NN			
2	08/09/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	08/09/2002	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

Paper No.: _____

DATE : November 20, 2006

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/216186 Patent No.: 7,112,272 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: all the amendments are approved except for the amendment to Claim 54 because it does not have bases on Claim (55) as amended on 5/1/2006. The term "optionally" should be changed by "at least one of".

SPE

1723

Art Unit

Staple Here Only!

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7112272

DATED: September 26, 2006

FIRST NAMED INVENTOR: HUGHES, DOUGLASS E.

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

OTHER PUBLICATIONS, insert --F. DeSilva, "Activated Carbon Filtration," *Water Quality Products Magazine*, January 2000--;

Column 5, line 55, delete "le;.5q";

Column 6, line 13, delete "le;.5q";

Column 6, line 34, delete "selfsupporting" and insert --self-supporting--;

Column 6, line 49, delete "le;.5q";

Column 11, line 49, delete "%<";
Column 11, line 51, insert --%<--- in front of "10";

Column 11, line 63, delete "from" and insert –form--;

Column 19, line 44, delete "trimethlpentane" and insert --trimethylpentane--;

Column 19, line 46, delete "trimethlpentane" and insert --trimethylpentane--;

Column 19, line 62, delete "trimethlpentane" and insert --trimethylpentane--;

Column 23, line 11, delete "Filters." and insert --Filters:--;

Column 25, line 13 (Claim 1), delete "at least";

Column 26, line 8 (Claim 14), delete "optionally".

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 7112272

No. of add'l copies: - 0-
@ 50¢ per page

No add'l copies

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

June 11, 2007

Patent No. : 7112272 B2
Ser. No. : 10/216186
Inventor(s) : Hughes, et al.
Issued : Sept. 26, 2006
Title : **LIQUID AND GAS POROUS PLASTIC FILTER AND METHODS OF USE**
Docket No. : 61571US002

Re: Request for Certificate of Correction

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

The request to change the alleged error in claims (all the amendments are approved except for the amendment to claim 14, because it does not have bases on claim 55 as amended on 5/1/2006. The term "optionally" should have changed by "at least one of".

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

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

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 3

BRUCE H. BERNSTEIN
GREENBLUM & BERNSTEIN P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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MAY 1 2 2003

OFFICE OF PETITIONS

NOTICE

In re Application of
Motoharu Takano
Application No. 10/216,188
Filed: August 12, 2002
Attorney Docket No. P22674

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

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

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

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

This file is being forwarded to Technology Center 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BRUCE H. BERNSTEIN
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Motoharu Takano :
Application No. 10/216,193 :
Filed: August 12, 2002 :
Attorney Docket No. P22675.A03 :

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 1700.

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

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PO BOX 747
FALLS CHURCH VA 22040-0747

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of

FORAN, et al.
Application No. 10/216,225
Filed: August 12, 2002
Attorney Docket No. 1817-0130P

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 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 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, "corresponding attorneys no longer handling application", 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-listed address until otherwise notified by 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: **Internet Payments Limited**
Southern Cross Business Park, Bray
Unit 9
County Wicklow, Ireland

11-25-09

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date:

Application No. : 7,548,971
Issue Date : June 16, 2009
Inventor : Ricardo Espinoza-Ibarra, et. Al.
Application No.: 10/216,229

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 and 1.323.

Respecting the alleged error, in cols. 8 & 10, lines33, 41, 55, 16 is a change made in an Examiner's Amendment at tiem of allowance. Since no errror is is involved and since applicant filed no ovjectin prior to payment of the base issue fee, the requested change will not be included in the Certificate.

In view of the foregoing your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Hewlett-Packard Company
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fprt Collins, CO 80528

ej

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SMART & BIGGAR/FETHERSTONHAUGH & CO.
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA CANADA

PROCESSED BY
PG PUB DIVISION
SEP 27 2004

Applicant: Hadjihassan et al.
Appl. No.: 10/216,243
Filing Date: August 12, 2002
Title: METHOD AND APPARATUS FOR ADJUSTING RECEIVER VOLTAGE THRESHOLD AND PHASE SAMPLING POINT USING FEC COUNTS
Attorney Docket No.: 78848-43
Pub. No.: US 2004/0030965 A1
Pub. Date: February 12, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on September 8, 2004, which included a copy of Applicants' stamped post card receipt, which acknowledges receipt of the request in the United States Patent and Trademark Office on March 23, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains errors in paragraph [0090], wherein "where $\underline{\Delta x_{max}}$ is . . ." is misprinted as "where Δx_{max} is . . ." and in claim 15, line 15 wherein "instructions for determining . . ." is misprinted as "instructions fox determining . . . ".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . .. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The typographical error in claim 15, line 15 wherein "instructions for determining . . ." is misprinted as "instructions fox determining . . ." is an Office error, but it is a minor typographical error which is understandable from reading the claim in which the term is used, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

[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).

With respect to the error in paragraph [0090], wherein "where $\underline{\Delta x_{max}}$ is . . ." is misprinted as "where Δx_{max} is . . ." is not a material error, as required by 37 CFR 1.221(b). The mistake is not a material mistake as required by 37 CFR 1.221(b), as it is a minor typographical error which is understandable from reading the sentence and paragraph in which the term is used, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Additionally, it is not readily apparent from the Office records, the text as originally filed by Applicant is of a very poor quality and difficult to read.

Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 703-872-9306

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

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

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P.O. Box 1450
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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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APR 12 2007

OFFICE OF PETITIONS

In re Patent No. 6,927,224 :
Issue Date: August 9, 2005 :
Application No. 10/216,253 : ON PETITION
Filed: August 9, 2002 :
Attorney Docket No. PH-7259 :

This is a decision on the petition filed November 13, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

JAN 13 2005

TECHNOLOGY CENTER 3600

Sand & Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

In re application of
Gerhard Reichert, et al
Application No. 10/216,258
Filed: August 8, 2002
For: SPACER ASSEMBLY FOR INSULATING GAZING UNITS AND METHOD FOR FABRICATING THE SAME

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on August 20, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to Item A), Attorneys Michael Sand and Fiona Ferguson are currently associated with Customer Number 27542, however, do not have power in this application. In an earlier Power of Attorney, attorneys Fred Zollinger, III, Joseph A. Seabolt and Clay Cunningham were given power in this application. If only the attorneys of record are to be withdrawn, this needs to be made clear in any supplemental request.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 11/4/04

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JOSEPH J. GRASS
MANARCH MARKING SYSTEMS, INC.
P.O. Box 608
Dayton OH 45401

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Chamandy, et al.	:	
Application No. 10/216,272	:	DECISION ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. M-637	:	

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed February 1, 2007 (certificate of mailing date January 30, 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 January 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2006. Accordingly, the date of abandonment of this application is January 20, 2007. A Notice of Abandonment was mailed on February 12, 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 of $1,400.00 and the publication fee of $300.00, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Publishing Division for processing into a patent.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JOSEPH J. GRASS
PAXAR AMERICAS, INC.
170 MONARCH LANE
MIAMISBURG OH 45342

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/216,273	08/12/2002	Jung-Il Nam	P56727	6663

7590 09/22/2008

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER
WALKER, KEITH D

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
09/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

9-22-08

wk

Mailed :
In re Application of
Jung-Il, Nam et al.
Serial No. 10/216,273
Filed: August 12, 2002
For: Cap Assembly And Rectangular Type Secondary Battery Having The Cap Assembly.

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 consider the Japanese Office Action cited in Applicants' Information Disclosure Statement filed on June 19, 2008.

The Examiner's position is that Applicant failed to file a translation of the office action dated April 8, 2008 and as such it cannot be considered

37 CFR 1.98 (Content of Information Disclosure Statement) states that under

(3)(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

DECISION

A review of applicants' submission of April 8, 2008 does indicate that a concise explanation was provided on page 2 of the IDS submission.

Accordingly, the petition is **GRANTED**.

The Examiner is requested to consider the Japanese Office Action issued on April 8, 2008 and to provide applicants with confirmation of the consideration in writing.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
1522 K Street, Suite 300
Washington, D.C. 20005

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

Mail Date: 04/21/2010

Applicant	: Ulrich Heiser	: DECISION ON REQUEST FOR
Patent Number	: 7608577	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/216,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **847** 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

GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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FEB 27 2004
OFFICE OF PETITIONS

In re Application of	:	
Jayant Venkatesh Deshpande et al	:	
Application No. 10/216,315	:	NOTICE
Filed: August 12, 2002	:	
Attorney Docket No. P22458	:	

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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DIW Sep-06

MARK A. TIDWELL
JACKSON WALKER L.L.P.
SUITE 2100
112 E. PECAN
SAN ANTONIO CA 78205

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SEP 11 2006

OFFICE OF PETITIONS

In re Application of	:	
William C. Maloney	:	DECISION ON PETITION TO
Application No. 10/216,334	:	WITHDRAW HOLDING OF
Filed: 9 August, 2002	:	ABANDONMENT
Attorney Docket No.	:	
127071.0040.000	:	

This is a decision on the petition filed on 8 December, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the non-final Office action mailed on 15 June, 2004, which set a three (3) month shortened statutory period of time for reply. On 16 December, 2004 (certificate of mailing date 13 December, 2004), an amendment and a three (3) month extension of time were filed. On 29 November, 2005, Notice of Abandonment was mailed.

Petitioners assert that a timely reply was filed in response to the non-final Office action mailed on 15 June, 2004.

A review of the Official file reveals that a timely response was filed with a Certificate of Mailing dated 13 December, 2004.

The showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

It is noted in passing that although the Notice of Abandonment states that the reply filed on 16 December, 2004, does not appear to be a *bona fide* reply, no reason is given as to why the reply is improper. As the reply filed on 16 December, 2004, appears to be a proper reply, the petition is granted.

The application is being referred to Technology Center Art Unit 2636 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 21

WORKMAN, NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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MAY 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Carl R. Stanford
Application No. 10/216,342
Filed: August 10, 2002
Attorney Docket No. 15499.8.4

This is a decision on the petition, filed May 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3637 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

G.E. EHRLICH (1995) LTD.
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of	:
Ofer Yodfat et al et al	: DECISION ON PETITION
Application No. 10/216,356	: UNDER 37 CFR 1.78(a)(3)
Filed: August 12, 2002	:
Attorney Docket No. 01/22914	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of the prior-filed PCT 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.

---

[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 petition does not comply with item (3).

The instant petition is unsigned. Therefore, the statement of unintentional delay does not satisfy the requirements of 37 CFR 1.78(a)(3).

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) cannot be granted.

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

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859 .

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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G.E. EHRLICH (1995) LTD.
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:
Ofer Yodfat et al	:
Application No. 10/216,356	: DECISION ON PETITION
Filed: August 12, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01/22914	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § § 120 and 365(c) for the benefit of the prior-filed PCT application set forth in the amendment filed April 26, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on August 12, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant 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 and 365(c) to the prior-filed 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 applications. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 3738 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § § 120 and 365(c) to prior-filed PCT Application No. PCT/IL01/00624, filed July 9, 2001.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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REISING ETHINGTON BARNES KISSELLE, P.C.
P O BOX 4390
TROY, MI 48099-4390

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SEP 1 9 2005

OFFICE OF PETITIONS

In re Application of :
Peter M. Beecherl et al :
Application No. 10/216,372 :
Filed: August 9, 2002 :
Attorney Docket No. 2517.3030.001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 2005, to revive the above-identified application. The petition is more properly a petition under 37 CFR 1.181 requesting 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 non-final Office action mailed March 4, 2004, which set a shortened statutory period for reply of three (3) months. Therefore, a reply was due on or before June 4, 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 (USPTO) on May 28, 2004 of Fee Transmittal (1 pg); Amendment (11 pgs); Check No. 7508-$86.00. Additionally, petitioner has supplied a copy of the previously mailed correspondence.

The reply acknowledged as having been received in the USPTO on May 28, 2004 is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Therefore, the petition fee of $1,500.00 is being credited to Deposit Account No. 50-0852, as authorized.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This matter is being referred to Technology Center AU 3723.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of Joyce Tombran-Tink et al. Application No. 10/216,373 Filing Date: August 9, 2002 Attorney Docket No.: 2026-4203US2 Title: RETINAL PIGMENTED EPITHELIUM DERIVED NEUROTROPHIC FACTOR	DECISION ON PETITION UNDER 37 C.F.R. §1.78(A)(3)

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed June 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 C.F.R. 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 C.F.R. 1.78(a)(2)(ii).

In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(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 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 C.F.R. § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 C.F.R. 1.121 and 37 C.F.R. 1.76(b)(5)) to correct the above matters are required.

Petitioner's representative will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. §1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. §1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a

supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. §1.33(b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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's representative desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner's representative. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner's representative will not receive future correspondence related to this application unless Change of-Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application.

For the convenience of Petitioner's representative, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to Paul Shanoski at (571) 272-3225[4].

---

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.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson for

Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

cc: WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46th FLOOR
PHILADELPHIA PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Joyce Tombran-Tink et al.	:	
Application No. 10/216,373	:	DECISION ON RENEWED PETITION
Filing Date: August 9, 2002	:	UNDER 37 C.F.R. § 1.78(A)(3)
Attorney Docket No.: 2026-	:	
4203US2	:	
Title: RETINAL PIGMENTED	:	
EPITHELIUM DERIVED NEUROTROPHIC	:	
FACTOR	:	

This is a decision on the renewed petition under 37 C.F.R § 1.78(a)(3) filed July 6, 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.

An original petition was filed on June 8, 2006, and was dismissed via the mailing of a decision on March 14, 2007.

This renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(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 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The original petition was dismissed as the reference improperly incorporated by reference the prior-filed applications.

With this renewed petition, Petitioner has submitted a revised amendment, which incorporates by reference only the applications that were incorporated by reference on filing of the application.

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 C.F.R. § 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 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries

concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1649 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.

Nancy Johnson
Senior Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/216,373	08/09/2002	1649	3038	2026-4203US2	59	22

CONFIRMATION NO. 3299

CORRECTED FILING RECEIPT

OC000000025649389

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 08/31/2007

Receipt is acknowledged of this nonprovisional 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 (if appropriate).**

Applicant(s)

Joyce Tombran-Tink, Derwood, MD;
Fintan R. Steele, Washington, DC;
Gerald J. Chader, Bethesda, MD;
Sofia Patricia Becerra, Bethesda, MD;
Lincoln V. Johnson, Pasadena, CA;
Ignacio R. Rodriguez, Rockville, MD;

Power of Attorney: The patent practitioners associated with Customer Number **33678**.

Domestic Priority data as claimed by applicant

This application is a DIV of 08/520,373 08/29/1995 PAT 6,451,763
which is a CON of 08/377,710 01/25/1995 ABN
which is a CON of 08/279,979 07/25/1994
which is a CIP of 07/952,796 09/24/1992 ABN
and is a CIP of 07/894,215 06/04/1992 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/216,373

Projected Publication Date: 12/06/2007

Non-Publication Request: No

Early Publication Request: No

Title

Retinal pigmented epithelium derived neurotrophic factor

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

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APR 1 8 2003

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of Mendu, et al. Application No. 10/216,427 Filed: August 9, 2002 Attorney Docket No. 5175.119	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 18, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on August 9, 2002, without an executed oath or declaration. Accordingly, on September 16, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant included a Certificate of Mailing dated November 12, 2002. Accompanying the petition was a declaration signed by joint inventors Nandini Mendu, Stephen Wolfe, John Hebrank, and Dipak Mahato, but lacking a signature from joint inventor Molly Bland.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Karen A. Magri has attested that Bland was presented with a copy of the application papers. According to Magri, Bland made an oral refusal to sign the declaration in a telephone conversation with Magri on or about October 3, 2002.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to 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
Washington, D.C. 20231
www.uspto.gov

MOLLY BLAND
102 BAYBROOK CT
CARY NC 27511

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Nandini Mendu, Molly Bland, Stephen :
Wolfe, John Hebrank, and Dipak Mahato :
Application No. 10/216,427 : LETTER
Filed: August 9, 2002 :
Title: METHODS FOR INJECTING AVIAN EGGS

Dear Ms. Bland:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Karen A. Magri
Myers Bigel Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of
Ebrahim Abedifard, et al.
Application No. 10/216,439
Filed: August 12, 2002
Attorney Docket No.: M4065.0547/P547

ON PETITION

This is a decision on the petition, filed December 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2115 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).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,661,393	2003-12-09	10216449	2002-08-09	MVIS 98-20 C1

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	/Kevin D. Wills/	Date (YYYY-MM-DD)	2007-12-24
Name	Kevin D. Wills/	Registration Number	43993

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. 6661393
Issue Date: December 9,2003
Application No. 10216449
Filed: August 9,2002
Attorney Docket No. MVIS 98-20 C1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 24,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Jiunn-Liang Chen	:	
Application No. 10/216,474	:	ON PETITION
Filed: August 6, 2002	:	
Attorney Docket No. PUSA020622	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 6, 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 3724.

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

MAY 5 2006

BUCHANAN INGERSOLL LLP
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:
Nanibhushan Dattagupta et al	:
Serial No.: 10/216,488	: STATUS LETTER
Filed: August 9, 2002	:
Attorney Docket No.: 034106-007	:

This is in response to applicants' attorneys' request, filed August 17, 2005, to withdraw from representation in the above identified application. The delay in acting on this request is regretted.

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 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

AUG 17 2005

PTO/SB/83 (04-05)
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	10/216,488
Filing Date	August 9, 2002
First Named Inventor	Nanibhushan Dattagupta
Art Unit	1634
Examiner Name	O'FARRELL, Thomas John
Attorney Docket Number	034106-007

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
- [x] the attorneys/agents associated with Customer Number 41790

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: 2

Not Approved 5/2/06
WILLIAM H. DIXON, JR.
SPECIAL PROGRAM EXAMINER

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	Dr. Nanibhushan Dattagupta,				
Address	Applied Gene Technologies 6190 Cornerstone Court, East, Suite 101				
City	San Diego	State	CA	Zip	92121
Country	U.S.A.				
Telephone	(858) 452-6480	Email			
Signature					
Name	Joseph R. Baker, Jr.	Registration No.	40,900		
Date	August 15, 2005	Telephone No.	(858) 509-7300		

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
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Paper No. 10

MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAY 2 0 2003

OFFICE OF PETITIONS

In re Application of Grosse, et al. Application No. 10/216,489 Filed: August 9, 2002 Attorney Docket No. 21402-425 (Cura-725)	: : : : :	DISMISSAL REFUSING DECLARATION UNDER 37 CFR 1.43

This is in response to the petition under 37 CFR 1.43 and 1.47(a), filed January 29, 2003.

The petition under 37 CFR 1.43 (no fee) is **DISMISSED.**

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT.**

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 1.43" 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).

The above-identified application was filed on August 9, 2002, without an executed oath or declaration. Accordingly, on September 20, 2002, the Office mailed applicant a "Notice to File Missing Parts of Nonprovisional Application" requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, made timely by obtaining a three month extension of time. Accompanying the petition was a declaration executed by joint inventors John P. Alsobrook, II, Catherine E. Burgess, and Joel S. Bader. In the signature block for joint inventor William M. Grosse, applicant has included a signature of Christopher McLeod, whom the petition identifies as a "representative" of the Curagen Corporation.

On petition, applicant states that Grosse is "legally incapacitated within the meaning of 37 CFR 1.43 due to an illness requiring treatment in an intensive care facility." Accordingly, applicant has submitted a declaration executed by McLeod on behalf of Grosse, pursuant to an "employment agreement" with Grosse.

37 CFR 1.43 states that "[i]n case an inventor is insane or otherwise legally incapacitated, the **legal representative (guardian,**

conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent."[1]

37 CFR 1.64(b) states that in instances where the person making the oath or declaration is not the inventor (as in a declaration submitted pursuant to 37 CFR 1.43), the "declaration shall state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor is required to state."

Here, the declaration executed by Christopher McLeod dated January 21, 2003 does not comply with 37 CFR 1.43 and CFR 1.64(b). First, the declaration does not comply with 37 CFR 1.64(b) because the declaration does not state the relationship of McLeod to Grosse.

In addition, the declaration does not comply with 37 CFR 1.43. It has not been shown that McLeod is a proper legal representative, such as a guardian or conservator, of nonsigning joint inventor Grosse. Rather, the petition states that McLeod is a "representative" of the Curagen Corporation. An assignee is only allowed to make an application for patent on behalf of a nonsigning inventor where **all** of the inventors have refused to sign.[2] As three of the four inventors have signed the instant declaration, McLeod is not permitted to sign on behalf of Grosse. Rather, the signing inventors are permitted to sign the declaration on behalf of themselves and nonsigning inventor Grosse, if it can be shown pursuant to a petition under 37 CFR 1.47(a) that Grosse can not be located or refuses to sign the declaration. As petitioner has already stated that Grosse is legally incapacitated, then 37 CFR 1.47(a) is not the appropriate remedy. Rather, the legal representative of Grosse (e.g. guardian, conservator, etc.) must sign the declaration.

As a petition under 37 CFR 1.47(a) is not necessary in instances where a nonsigning inventor is legally incapacitated, the $130 petition fee has been refunded to Deposit Account No. 50-0311.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] Emphasis added.

[2] See 37 CFR 1.47(b).

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JENELL LAWSON
INTELLECTUAL PROPERTY
CURAGEN CORPORATION
555 LONG WHARF DRIVE
NEW HAVEN CT 06551

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of Grosse, et al. Application No. 10/216,489 Filed: August 9, 2002 Attorney Docket No. 21402-425 (Cura-725)	: DECISION NOTING JOINDER : OF INVENTOR AND PETITION : UNDER 37 CFR 1.43 MOOT : :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.43", filed August 20, 2003. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 CFR 1.43 is **DISMISSED AS MOOT.**

The above-identified application was filed on August 9, 2002, without an executed oath or declaration. Accordingly, on September 20, 2002, the Office mailed applicant a "Notice to File Missing Parts of Nonprovisional Application" requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.43, made timely by obtaining a three month extension of time. Accompanying the petition was a declaration executed by joint inventors John P. Alsobrook, II, Catherine E. Burgess, and Joel S. Bader. In the signature block for joint inventor William M. Grosse, applicant included a signature of Christopher McLeod, whom the petition identifies as a "representative" of the Curagen Corporation.

On petition, applicant stated that Grosse is "legally incapacitated within the meaning of 37 CFR 1.43 due to an illness requiring treatment in an intensive care facility." Accordingly, applicant submitted a declaration executed by McLeod on behalf of Grosse, pursuant to an "employment agreement" with Grosse.

However, the petition was dismissed in a decision mailed on May 20, 2003. The declaration did not comply with 37 CFR 1.43 and 37 CFR 1.64(b) because it failed to state the relationship of McLeod to Grosse, and petitioner did not establish that McLeod was a proper legal representative of Grosse.

The instant request for reconsideration is made timely in view of applicants' purchase of a one month extension of time.

In view of the **joinder** of inventor Grosse, further consideration under 37 CFR 1.43 is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.43 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 1.43.

The application file is being forwarded to Group Art Unit 1634 for examination.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed: :May 21, 2010
Patent No. : 7,117,635 B2
Ser. No. :10/216499
Issued : October 10, 2006
Inventor(s) Andreas Thal, et al.
Title : TRAPPING PROTECTOR FOR A POWER-OPERATED CLOSING DEVICE

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request in this matter is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

HARTER Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604

MD/mt

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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

Applicant	: Joseph L. Breeden	: DECISION ON REQUEST FOR
Patent Number	: 7660735	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/216,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1422** 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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ALEXANDRIA, VA 22313-1450
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Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perte, L.L.P.
One Landmark Square, 10th Floor
Stamford CT 06901-2682

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OFFICE OF PETITIONS

Applicant: Singer et al.
Appl. No.: 10/216,547
Filing Date: August 9, 2002
Title: ILLUMINATION SYSTEM THAT SUPPRESSES DEBRIS FROM A LIGHT SOURCE
Attorney Docket No.: 27691.10
Pub. No.: US 2004/0095623 A1
Pub. Date: May 22, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 17, 2003

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title, wherein "Illumination System that Suppresses Debris From A Ligh Source"is misprinted as "Illumination System that Suppresses Debris From A Light Source".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

The request for corrected publication received on November 17, 2003, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in the title on the first page of the publication would not have been considered a material error, as required by 37 CFR 1.221(b). The instant request identifies a minor typographical error in the title of the invention, wherein "Light"is misprinted as "Ligh", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled throughout the specification. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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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).

On September 27, 2002, a Filing Receipt was mailed listing the title of the invention as a "Illumination System that Suppresses Debris From A Ligh Source". To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant's request for a corrected patent application publication on November 17, 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" 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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 12 2004

VP
PAPER NO. 7

In re Application of
Emilio Barbera-Guillem
Serial Number: 10/216,554
Filed: August 9, 2002
For: CELL AND TISSUE CULTURE DEVICE

PETITION UNDER
M.P.E.P.708.02 I,
V and VII

This is in response to the petition filed August 11, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 I, V and VII of the MPEP and 37 CFR 1.102(c) and 37 CFR 1.102(d). The petition fee under 37 CFR 1.17(h) has been paid.

The request for Special Status considered under Sections 708.02 I, V and VII of the MPEP is granted because the criteria under 37 CFR 1.102(c) and 37 CFR 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SEAN M. CASEY CO., LPA
P.O. Box 710
New Albany OH 43054-0710

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OFFICE OF PETITIONS

WAGNER MURABITO & HAO LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

In re Application	:	
Speck, et al.	:	
Application No. 10/216,557	:	DECISION ON APPLICATION
Filed: August 9, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. SYNA-114	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705)", filed December 4, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to five hundred ninety-nine (599) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **five hundred eighty seven (587) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 6, 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 zero (0) days. On June 28, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred ninety-nine (599) days.

Applicants assert entitlement to a patent term adjustment of five hundred ninety-nine (599) days on the basis that the PTO improperly assessed Applicants a delay of three hundred twenty-three (323) days for responding to a September 9, 2004 non-final Office action by filing an Amendment on October 28, 2005. Applicants assert that they filed the Amendment on December 9, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) based on an adjustment for PTO delay of three hundred thirty-six (336) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of three hundred twenty-three (323) and twenty-seven (27) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b).

The adjustment of three hundred twenty-three (323) days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing an Amendment, and bearing a USPTO date stamp of December 15, 2004. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2] Accordingly, it is concluded that Applicant should only have been assessed delay of six (6) days for filing the Amendment on December 15, 2004, not three hundred twenty-three (323) days. Although it is true the Amendment was made timely for purposes of avoiding abandonment by including a Certificate of Mailing dated December 9, 2004, under 37 C.F.R. 1.703(f), a Certificate of Mailing is not taken into account in the PTA calculation.

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[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

[2] MPEP 503.

Furthermore, as Applicant filed the RCE on December 15, 2004, the Office should have been assessed additional delay in not mailing a response until January 24, 2006. Office delay should have been assessed as two hundred eighty-four (284) days, representing the number of days beginning on April 16, 2005 and ending on January 24, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred eighty-seven (587) days** (620 (336+284) days of PTO delay and 33 (27+6) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson for

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

PALM INTRANET

Day : Tuesday
Date: 3/6/2007
Time: 17:36:04

PTA Calculations for Application: 10/216557			
Application Filing Date:	08/09/2002	PTO Delay (PTO):	336
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	350
Post-Issue Petitions:	0	Total PTA (days):	587
PTO Delay Adjustment:	601		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	03/06/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
46	03/06/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	284		
45	03/06/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	323		
37	09/06/2006	MAIL NOTICE OF ALLOWANCE			
36	08/29/2006	CORRESPONDENCE ADDRESS CHANGE			
35	08/29/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	08/21/2006	ISSUE REVISION COMPLETED			
33	08/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	08/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
31	08/21/2006	NOTICE OF ALLOWABILITY			
30	08/17/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
29	08/04/2006	DATE FORWARDED TO EXAMINER			
28	08/01/2006	AMENDMENT AFTER FINAL REJECTION			
27	06/02/2006	MAIL FINAL REJECTION (PTOL - 326)			
26	05/28/2006	FINAL REJECTION			
25	03/20/2006	DATE FORWARDED TO EXAMINER			
24	02/28/2006	RESPONSE AFTER NON-FINAL ACTION			
23	01/24/2006	MAIL NON-FINAL REJECTION			
22	01/20/2006	NON-FINAL REJECTION			
21	10/28/2005	NEW OR ADDITIONAL DRAWING FILED			
20	11/20/2005	DATE FORWARDED TO EXAMINER			
19	10/28/2005	RESPONSE AFTER NON-FINAL ACTION		323	17
18	12/15/2004	WORKFLOW INCOMING AMENDMENT IFW			
17	09/09/2004	MAIL NON-FINAL REJECTION	336		-1

16	09/07/2004	NON-FINAL REJECTION			
15	07/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	04/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/15/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	11/15/2003	TRANSFER INQUIRY TO GAU			
9	02/04/2003	APPLICATION DISPATCHED FROM OIPE			
8	02/05/2003	APPLICATION IS NOW COMPLETE			
7	01/02/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		27	3
4	01/02/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	09/06/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	08/19/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/09/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHICAGO IL 60606-6613

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OFFICE OF PETITIONS

In re Application of	:	
Pollock et al.	:	
Application No. 10/216597	:	ON APPLICATION FOR
Filing or 371(c) Date: 08/12/2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
MSE #2664	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b), filed July 16, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1355 days, not 682 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 patentee is entitled to for Office failure to issue the patent within 3 years. See § 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 § 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 (or even the filing date of the request for continued examination) 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).

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 Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] For example, if applicants 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.

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NIXON PEABODY LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: Neil Pollock	: DECISION ON REQUEST FOR
Patent Number	: 7604775	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/216,597	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1354** 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
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Paper No. 4

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JAN 29 2003

OFFICE OF PETITIONS

D. Scott Hemingway
STORM & HEMINGWAY
Preston Commons West, Suite 460
8117 Preston Rd.
Dallas, TX 75225

In re Application of Walker, et al. Application No. 10/216,599 Filed: November 27, 20002 Atty. Dkt. No.: P1001 For: LIGHT ILLUMINATED TOY DEVICE	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 13, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Brian Walker 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.

The required surcharge of $130.00 as been charged to Deposit Account No. 501-270.

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
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BRIAN WALKER
21165 SCOTTSDALE DRIVE
BEND, OREGON 97771

COPY MAILED

JAN 29 2003

OFFICE OF PETITIONS

In re Application of :
Walker, et al. :
Application No. 10/216,599 : LETTER
Filed: November 27, 20002 :
Atty. Dkt. No.: P1001 :
For: LIGHT ILLUMINATED TOY DEVICE :

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 : 11/17/04

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 6703352

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:

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE — 1712 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

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FEB 13 2007
OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/216,611	:	DECISION ON PETITION
Filed: 12 August, 2002	:	AND LETTER DISMISSING
For: DOUBLE INTERFACE SD FLASH	:	PETITION
MEMORY CARD	:	

This is a decision on the petition filed on 11 January, 2005, to withdraw the holding of abandonment, and the petition filed on 22 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The Office apologizes for the delay in responding to the petition filed on 11 January, 2005, and regrets any inconvenience to petitioners.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition to revive is **DISMISSED** for the reasons stated below.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 3 October, 2004, for failure to timely submit the issue and publication fees in respone to the Notice of Allowance and Fee(s) Due mailed on 2 July, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 12 November, 2004.

Petition to withdraw the holding of abandonment.

Petitioners assert in the petition filed on 11 January, 2005, that the Notice of Allowance was never received.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not in fact received. However, petitioner has not met the showing required to establish nonreceipt of an Office letter. To establish nonreceipt of an Office communication, a petitioner must: 1) include a statement that the Office communication was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office communication 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.[2] A proper docket report consists of a "docket record **where the nonreceived Office action would have been entered had it been received and docketed.**"[3] "For example, if a three-month period for reply was set in the nonreceived Notice, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Notice must be submitted..."[4]

However, as petitioner is a *pro se* applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter.

---

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] MPEP 711.03(c)(II) (emphasis added).

[4] Id.

Specifically, petitioners must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where they write down due dates; how he knows replies are due, etc. In essence, petitioners must explain how they reminds themselves of response due dates and show that the due date for the Notice mailed on 2 July, 2004, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to petitioners' most important business.

As such the application is properly held abandoned.

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."

Petition Under 37 CFR 1.137(b).

The petition, which is signed by inventor Wen-Tsung Liu, cannot be considered on the merits because it is not properly signed. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. As this application contains an executed declaration listing Wen-Tsung Liu and Chia-Li Chen as joint inventors, the petition must be signed by both inventors or by their representative.

Applicants should file a new petition signed by both joint inventors or their representative. No additional petition fee is due.

A reply should be submitted within ONE (1) month of receipt of this communication.

Receipt of the Change of Correspondence Address is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Application of
WEN-TSUNG LIU
Application No. 10/216,611
Filed: August 12, 2002
For: DOUBLE INTERFACE SD FLASH MEMORY CARD

DECISION ON PETITION

This is a decision on the renewed petition filed on May 3, 2010, 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 pay the issue and publication fees on or before October 2, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed July 2, 2004. Accordingly, the date of abandonment of this application is October 3, 2004. On November 12, 2004, a Notice of Abandonment was mailed. The petition to withdraw the holding of abandonment and under 37 CFR 1.137(b) filed on January 11, 2005, was dismissed on February 13, 2007.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director 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 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 deficit in the amount of $55, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowance and Fee(s) Due of September 2, 2004, is accepted as having been unintentionally delayed.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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G. Link Co., Ltd.
931 West 75th Street
Suite 137, PMB 174
Naperville, IL 60565

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Liu, et al.
Application No. 10/216,614
Attorney Docket No. (None)
Filed: August 12, 2002
For: VIDEO/AUDIO MEDIA PLAYER SUPPORTING VARIOUS FLASH MEMORY CARDS

SUA SPONTE
WITHDRAWAL OF HOLDING OF ABANDONMENT

The status inquiry, filed January 11, 2005 is acknowledged.

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on October 12, 2004. The notice indicated that the instant application was being held abandoned for failure to respond to the Non-Final Office letter (mailed on December 19, 2003). In addition, the Notice indicated that the Non-Final Office letter was "returned to the USPTO as undelivered mail". The correspondence address in the USPTO database had been entered improperly (incomplete). Thus, the Non-Final Office letter was returned to the USPTO on April 27, 2004.

A change of correspondence address was received on January 11, 2005 and has been entered into the file.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status and to redate/remail the Non-Final Office letter of December 19, 2003.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

5/4/05

UNITED STATE[illegible]PARTMENT OF COMMERCE
Patent and Trade[illegible]rk Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

JC971 U.S. PTO
10/216638
08/09/02

NOV 1 2000

Paper No. 5

In re Application of:
Keith N. Ravenscroft, et al.
Serial No. 09/317,304
Filed: May 24, 1999
For: COMPOSITION AND METHOD
FOR METAL COLORING PROCESS

DECISION ON PETITION

RECEIVED
MAY 28 2003
TC 1700

This is a decision on the petition under 37 CFR 1.102(d) and MPEP 708.02(X), filed October 30, 2000, requesting that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. Section 708.02, Sections I: Manufacture.

The petition has been considered and found to comply with the requirements set forth under the above-noted section.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this case and should state in the official letter of such application that he is taking it out of its turn because of a possible interference.

Should an appeal be taken in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is granted to the extent indicated.

Jerome W. Massie, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Malcolm D. Reid
Gray Plant Mooty & Bennett PA
3400 Multifoods Tower
33 S. 6th Street
Minneapolis, MN ~~5402~~ 55402

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Paper No. 7

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, NW
WASHINGTON, DC 20004-2201

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JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of
Wondergem
Application No. 10/216,673
Filed: August 12, 2002
Attorney Docket No. P67837US1

ON PETITION

This decision concerns the April 16, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on November 17, 2002 for failure to timely submit the basic filing fee and a substitute specification as required by the September 16, 2002 "Notice to File Missing Parts of Nonprovisional Application" ("9/16/02 Notice").

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) a substitute specification as required by the 9/16/02 Notice; the $385 basic filing fee and the $65 surcharge for late filing of the fee, both in small entity amounts; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in submitting the basic filing fee and the substitute specification 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.

The file is being returned to the Office of Initial Patent Examination for further processing. Upon completion of pre-examination, the application file will be 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

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Toomas Neuman	: DECISION ON REQUEST FOR
Patent Number	: 7632680	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/216,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **929** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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APR 14 2005

Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540

In re Application of Henrik Egesborg Hansen et al Serial No. : 10/216,680 Filed : August 7, 2002 For : Portable Device and Method of Communicating Medical Data Communication	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed via facsimile transmission on October 7, 2004 to review the holding of abandonment mailed September 8, 2004 for failure to respond to the Office action mailed March 1, 2004. The basis for the request is that applicants did not receive the communication mailed March 1, 2004. There is no fee required for this petition.

Petitioner asserts that the Office action mailed March 1, 2004 was mailed to an old, out-of date address. Petitioner correctly asserts applicants properly notified the Office of an address change on September 11, 2002 and the Office noted receipt of such request in a communication mailed September 12, 2002. However, confusion was created upon the filing of a declaration on November 26, 2002, as the form used apparently was petitioner's old form as it requested that all correspondence be sent to petitioner's old address. The transmittal letter accompanying the declaration did provide the new address. The address situation was rectified upon the filing of a Power of Attorney on March 24, 2004, subsequent to the mailing of the Office action, but prior to the mailing of the Notice of Abandonment.

In view of the above, it is clear that as the communication of March 1, 2004 was mailed to an old address, applicants did not receive the communication. Accordingly, the holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to have the communication of March 1, 2004 remailed setting forth a new period for response.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/13/05

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APR 19 2007

Leon R. Yankwich, Esq.
Yankwich & Associates
201 Broadway
Cambridge MA 02139

In re Application of	:
Lofert et al.	:
Serial No.: 10/216,682	: PETITION DECISION
Filed: August 8, 2002	:
Attorney Docket No.: QGN-005.1 US	:

This is in response to the petition under 37 CFR § 1.181, filed January 17, 2007 requesting that the after final amendment filed on November 6, 2006 be entered into the above referenced application. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a non-final Office action on January 24, 2006, setting forth a three-month shortened statutory period for reply. In this Office action, claims 1-3, 7-23, 72, 74-76, 82-86, 92 and 94-96 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonable convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1-3, 7-11, 72, 74, 75 and 76 were also rejected under 35 U.S.C. 102 (e) as being anticipated by Frey et al.

In response, applicants filed an amendment on May 24, 2006 arguing the merits of the Office action and amending the claims to require that the claimed thermostable chimeric nucleic acid polymerase "retains at least 95% of its polymerase activity after one minute at 95°C".

On August 4, 2006, the examiner mailed a final Office action again rejecting claims 1-3, 7-23, 72, 74-76, 82-86, 92 and 94-96 under 35 U.S.C. 112, first paragraph for the reasons set forth in the last Office action. Additionally, the examiner rejected claims 1-3, 7-23, 72, 74-76, 82-86, 87-91, 92 and 94-96 under 35 U.S.C. 112, first paragraph, on the basis that the newly added amendment of claims 1 and 72, which recites "that it retains at least 95% of its polymerase activity after one minute at 95°C" is considered new matter. The rejection over Frey et al. was withdrawn.

In response, applicants filed a Notice of Appeal and an amendment after final on November 9, 2006 arguing the merits of the final Office action and amending the claims.

On December 15, 2006, the examiner mailed an advisory action which stated that the amendment after final of November 9, 2006 would not be entered as the proposed amendment raised new issues.

In response thereto, applicants filed this petition on January 17, 2007 requesting that the amendment after final filed on November 9, 2006 be entered into the above referenced application.

DISCUSSION

Applicants petition the denial of entry of the after-final amendment by challenging the assertion that any new issues requiring consideration or search are raised by the requested amendment. Applicants' argument has been carefully considered but it is not persuasive. Applicants amending the claims to recite "at its normal operating temperature (typically about 95°C)" clearly raises new issues as this specific language was not previously set forth in the claims and, thus, not considered by the examiner. As a result, a new search would be required to address this limitation.

Applicants also challenge the assertion that a new search would be required in light of applicants' previous amendment which overcame the prior art rejection. This point is not persuasive since the language recited in the claims at that time which was sufficient to withdraw the art rejection of Frey et al. is not the same language applicants are currently petitioning entry thereof.

Applicants also argue that the particular amendments were proposed and discussed with the examiner in a telephone interview prior to submission and received the examiner's assurance that they were probative of the matters remaining at issue. Although proposed particular amendments to the claims were discussed in the telephonic interview of October 16, 2006, the examiner specifically indicated to the attorney of record (Mr. Yankowich) that the examiner reserved judgment as to the result of such an amendment. Also, the examiner specifically cautioned the attorney on making any amendments after the final rejection as this would be treated and subject to all the provisions of such.

DECISION

The petition is **DENIED**. Any new or renewed petition must be filed within TWO MONTHS of the mailing date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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NANCY SEAR IATAROLA
371 SPRING VIEW COURT
PORTER, IN 46304

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of

Danton S. Long
Application No. 10/216,701
Filed: August 12, 2002
Attorney Docket No. 41,299

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Nancy Sear Iatarola has been revoked by the applicant of the patent application on October 31, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

A final rejection was mailed on August 23, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Danton Long
138 South Dickson Street
Michigan City, IN 46360

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
10/216,701	08/12/2002	Danton S. Long	

CONFIRMATION NO. 9032

POWER OF ATTORNEY NOTICE

29645
NANCY SEAR IATAROLA
371 SPRING VIEW COURT
PORTER, IN 46304

OC000000026797953

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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United States Patent and Trademark Office
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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DEC 26 2006

OFFICE OF PETITIONS

In re Application of
GRUBER, et al.
Application No. 10/216,705
Filed: August 9, 2002
Attorney Docket No. 1149-3 DIV

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 30, 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 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, "assignee's representative has requested", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The assignment documents filed on August 9, 2002 are improper because they refer to the divisional application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MERISTEM THERAPEUTICS**
8 RUE DES FRERES LUMIERE, ZI DU BREZET
CLERMONT FERRAND F-63100
FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Attn: Jeffrey S. Whittle
Bracewell & Patterson, L.L.P.
P. O. Box 61389
Houston TX 77208-1389

MAILED

DEC 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Phillip Jack Snoke	:	
Application No. 10/216,715	:	DECISION ON PETITION
Filed: August 12, 2002	:	TO WITHDRAW
Attorney Docket No. 015428.000081	:	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 12, 2009.

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 attorneys/agents of record were not appointed using a customer, therefore they cannot be withdrawn using a customer number.

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 Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Catheter Imaging Systems, Inc.**
118 Riverview Drive
Suwanee, GA 30024

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OFFICE OF PETITIONS

Attn: Jeffrey S. Whittle
Bracewell & Patterson, LLP
P.O. box 61389
Houston, TX 77208-1389

In re Application of	:	
Phillip Jack Snoke	:	
Application No. 10/216,715	:	DECISION ON PETITION
Filed: April 12, 2002	:	TO WITHDRAW
Attorney Docket No. 015428.000081	:	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 January 28, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jeffrey S. Whittle on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Phillip J. Snoke at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Phillip J. Snoke**
301 N. Main Street, Suite 2302
Winston Salem, NC 27104

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/216,715	08/12/2002	Phillip Jack Snoke	015428.000081

CONFIRMATION NO. 2443

POWER OF ATTORNEY NOTICE

Attn: Jeffrey S. Whittle
Bracewell & Patterson, L.L.P.
P. O. Box 61389
Houston, TX 77208-1389

OC000000040173219

Date Mailed: 02/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
Michiaki Takano
Application No. 10/216,771
Filed: August 13, 2002
For: **TRANSMISSION POWER CORRECTING METHOD, MOBILE COMMUNICATIONS SYSTEM AND MOBILE STATION**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 17, 2004 and supplemented on September 15, 2004, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.
For applications in the Image File Wrapper (IFW) system, no copies of U.S. Patents are required.

The petitioner in combination with the original petition and as supplemented on September 15, 2004, 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/5/09

Paper No.: ——

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/216782 Patent No.: 7269137B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Kwang B. Yao/ — **SPE**

2416 — **Art Unit**

02997.002053

JAN 2 3 2009
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	Examiner: N. Ngo
STEPHANE BIZET, et al.	)	Group Art Unit: 2616
Appl. No.: 10/216,782	)	
Filed: August 13, 2002	)	
For: METHOD FOR SETTING UP AN ISOCHRONOUS DATA STREAM CONNECTION, WITH THE APPLICATION OF A PREDETERMINED, TOTAL ISOCHRONOUS DELAY ON ONE OR MORE ROUTING PATHS	)	Certificate JAN 2 8 2009 of Correction
U.S. Patent No.: 7,269,137 B2	)	
Issued: September 11, 2007	)	January 22, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF
CORRECTION UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form, in duplicate, is enclosed.

Accompanying this letter is a check for $100.00 to cover the statutory fee for such Certificate of Correction.

01/26/2009 SSANDARA 00000004 7269137
01 FC:1811 100.00 OP

JAN 2 8 2009

Patentees' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

Michael K. O'Neill
Attorney for Patentees
Registration No.: 32,622

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

FCHS_WS 2115921v1

JAN 2 8 2009

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, 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:

Line 4, "networ." should read -- network. --.

COLUMN 2:

Line 41, "for" should read -- a --; and

Line 53, Delete "included along the" (first occurrence).

COLUMN 3:

Line 4, "path is generally comprise" should read -- paths generally comprise --; and

Line 5, "not" should read -- nor --.

COLUMN 5:

Line 10, Delete "of the" (second occurrence).

COLUMN 8:

Line 3, "avec" should read -- with --;

Line 4, Delete "*origine*";

Line 25, "$D_{isochrone}$," should read -- $D_{isochronous}$, --; and

Line 41, "this" should read -- these --.

COLUMN 9:

Line 37, "heterogeneous" should read -- heterogeneous bridge --.

COLUMN 10:

Line 23, "heterogeneous" should read -- heterogeneous bridge --.

COLUMN 12:

Line 31, "seconds" should read -- second --; and

Line 56, "seconds obtention," should read -- second obtention means, --.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,269,137 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, 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 13:

Line 2, Delete "of the" second occurrence; and
Line 21, Delete "is used".

COLUMN 16:

Line 55, "EUI**164**" should read -- EUI**64** --.

COLUMN 17:

Line 27, "request":" should read -- request") --.

COLUMN 21:

Line 38, "IEEE 1294 standard." should read -- IEEE 1394 standard. --;
Line 53, "391 FIG. **7**," should read -- 391 in FIG. **7**, --; and
Line 59, "**2121/213** " should read -- **212/213** --.

COLUMN 22:

Line 20, IEEE 1294 " should read -- IEEE 1394 --; and
Line 67, "draft 0.175 " should read -- draft 0.17 --.

COLUMN 23:

Line 62, "nodes" should read -- node --.

COLUMN 25:

Line 1, "A" should read -- Δ --.

COLUMN 26:

Line 45, "(i.e. the" should read -- (i.e., the time --.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, 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 27:

Line 17, Delete "are"; and

Line 56, "taken" should read -- taken by the --.

COLUMN 29:

Line 19, "3,25 cycles" should read -- 3.25 cycles --.

COLUMN 31:

Line 65, "may" should read -- may be --.

COLUMN 37:

Line 42, "adaption" should read -- adaptation --; and

Line 66, Delete "which".

COLUMN 38:

Line 23, "network." should read -- network, --.

COLUMN 40:

Line 2, "claims **1**, **2** to" should read -- claims **1** to **19**. --; and

Line 3, Delete entire line.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, et al.

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IN THE ABSTRACT:

Line 4, "networ." should read -- network. --.

COLUMN 2:

Line 41, "for" should read -- a --; and

Line 53, Delete "included along the" (first occurrence).

COLUMN 3:

Line 4, "path is generally comprise" should read -- paths generally comprise --; and

Line 5, "not" should read -- nor --.

COLUMN 5:

Line 10, Delete "of the" (second occurrence).

COLUMN 8:

Line 3, "avec" should read -- with --;

Line 4, Delete "*origine*";

Line 25, "$D_{isochrone}$," should read -- $D_{isochronous}$, --; and

Line 41, "this" should read -- these --.

COLUMN 9:

Line 37, "heterogeneous" should read -- heterogeneous bridge --.

COLUMN 10:

Line 23, "heterogeneous" should read -- heterogeneous bridge --.

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Line 31, "seconds" should read -- second --; and

Line 56, "seconds obtention," should read -- second obtention means, --.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, 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 13:

Line 2, Delete "of the" second occurrence; and
Line 21, Delete "is used".

COLUMN 16:

Line 55, "EUI**164**" should read -- EUI**64** --.

COLUMN 17:

Line 27, "request":" should read -- request") --.

COLUMN 21:

Line 38, "IEEE 1294 standard." should read -- IEEE 1394 standard. --;
Line 53, "391 FIG. **7**," should read -- 391 in FIG. **7**, --; and
Line 59, "**2121/213** " should read -- **212/213** --.

COLUMN 22:

Line 20, IEEE 1294 " should read -- IEEE 1394 --; and
Line 67, "draft 0.175 " should read -- draft 0.17 --.

COLUMN 23:

Line 62, "nodes" should read -- node --.

COLUMN 25:

Line 1, "A" should read -- Δ --.

COLUMN 26:

Line 45, "(i.e. the" should read -- (i.e., the time --.

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New York, New York 10112-3800
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(212) 218-2200 - Facsimile

PATENT NO. 7,269,137 B2

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CERTIFICATE OF CORRECTION

PATENT NO. : 7,269,137 B2

DATED : September 11, 2007

INVENTOR(S) : Stephane Bizet, 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 27:

Line 17, Delete "are"; and
Line 56, "taken" should read -- taken by the --.

COLUMN 29:

Line 19, "3,25 cycles" should read -- 3.25 cycles --.

COLUMN 31:

Line 65, "may" should read -- may be --.

COLUMN 37:

Line 42, "adaption" should read -- adaptation --; and
Line 66, Delete "which".

COLUMN 38:

Line 23, "network." should read -- network, --.

COLUMN 40:

Line 2, "claims **1**, **2** to" should read -- claims **1** to **19**. --; and
Line 3, Delete entire line.

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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Naomichi Miyakawa et al
Application No. 10/216,815
Filed: August 13, 2002
Attorney Docket No. 225531USODIV

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1731 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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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 7-30-03
Type of Resp(s): ____
Due Date(s): ____

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OFFICE OF PETITIONS

In re Application of
Naomichi Miyakawa et al
Application No. 10/216,815
Filed: August 13, 2002
Attorney Docket No. 225531USODIV

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 0 5 2004

OFFICE OF PETITIONS

Applicant: Gicquel
Appl. No.: 10/216,817
Filing Date: August 13, 2002
Title: COMPOSITIONS AND METHODS FOR DETECTING MULTIDRUG RESISTANT STRAINS OF M. TUBERCULOSIS HAVING MUTATIONS IN GENES OF THE mut T FAMILY
Attorney Docket No.: 03495.0233
Pub. No.: US 2003/0129619 A1
Pub. Date: July 10, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on September 10, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains mistakes in the title on the front page of the publication and on page 1 of the specification wherein "mut T" is misprinted as "MUTT," on page 7, paragraphs 0116 where the text of the new paragraph should be part of the preceding footnote and on page 10, paragraph 0165 where "generally labeled with a radioactive element (^{32}P, ^{35}S, ^{3}H, ^{125}I) or by a non-isotopic molecule . . ." is misprinted as "generally labeled with a radioactive element (^{32}P, 35S, ^{3}H, 125I) or by a non-isotopic molecule . . . "

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 errors noted by requestor are Office errors, but they are minor typographical errors, which are clearly understandable. With respect to "mut T", the phase is written correctly throughout the specification and understandable, with respect to the last sentence of the footnote beginning a new separate paragraph, the information is still in the specification and understandable, with respect to the numerical value for the two radioactive elements being in a normal font instead of a superscript as they are supposed to be written, this is also understandable as a minor typographical error as they are in a list of radioactive elements. The mistakes are all minor

[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).

typographical errors which are clearly understandable from reading the specification and sentences in which each term is used, as terms 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 may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the 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 will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

APR 25 2005

Sheue-Ing Tsai
Yun Cheng Intellectual Property Right Co., Ltd.
2F-4-5, No. 148, Sec. 4
Chung Hsiao E. Rd.
Taipei
R.O.C.
Taiwan

In re Application of	:	
Sheue-Ing Tsai	:	DECISION ON PETITION
Application No. 10/216,829	:	TO WITHDRAW THE
Filed: August 13, 2002	:	HOLDING OF ABANDONMENT
For: FOOT PROPELLED SCOOTER		

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 18, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fees Due (hereinafter "Office action") were mailed to applicant on July 23, 2004. Since the issue fee was not received before the expiration of the three month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on December 2, 2004.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around October 23, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. A review of the entire application has been conducted and the above-noted file-jacket data sheet, the incoming mail log, and the docketed due-date entries for October 23, 2004 have not been located. That is the office has not received them. As a result, petitioner's evidence of non-receipt of the Office action mailed July 23, 2004 is insufficient to withdraw the holding of abandonment.

The petition is **DISMISSED**.

In order to comply with the above requirements the petition must include evidence that the correspondence was not received at the address of record. The log book from the law firm and a statement from them that such correspondence would have been entered into the log book had it been received should be sufficient evidence.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/jwk: 3/30/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHEUE-ING TSAI
YUN CHENG INTELLECTUAL PROPERTY RIGHT CO
2F-4-5 NO 148 SEC 4
CHUNG HSIAO E RD
TAIPEI
ROC
TAIWAN

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OFFICE OF PETITIONS

In re Application of	:
Sheue-Ing Tsai	: DECISION GRANTING PETITION
Application No. 10/216,829	: AND WITHDRAWING THE
Filed: August 13, 2002	: HOLDING OF ABANDONMENT
Title: Foot Propelled Scooter	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 4, 2005, and the petition to revive under 37 CFR 1.137(b), filed May 3, 2006.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The above-identified application became abandoned for failure to timely file a response to the Notice of Allowance mailed July 23, 2004. This Office action set a statutory period of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on October 24, 2004. A Notice of Abandonment was mailed on December 2, 2004. Applicant filed a petition to withdraw the holding of abandonment on January 18, 2005. However, the petition was dismissed in a decision mailed on April 25, 2005. Applicant was instructed on renewed petition to submit a copy of a log book.

Petitioner states that he did not 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 in the form of a log book showing incoming mail for the relevant period, and stated that the Notice of Allowance would have been entered had it been received.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged. The $750 fee submitted for the petition to revive on May 3, 2006 will be refunded to petitioner under separate cover.

The application is being forwarded to Group Art Unit 3618 for re-mailing of the Notice of Allowance mailed July 23, 2004, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] Id.

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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Yukifumi Yamada :
Application No. 10/216,868 : ON PETITION
Filed: August 13, 2002 :
Attorney Docket No. 01198.0274

This is a decision on the petition, filed April 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3636 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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Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311

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APR 13 2005

OFFICE OF PETITIONS

In re Application of
Michael J. McMahon, et al.
Application No. 10/216,881
Filed: August 12, 2002
Attorney Docket No. 769-333

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 the prior-filed nonprovisional application(s) 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.

Petitioner has met all of the requirements listed above.

Application No. 10/216,881

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application(s), accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3223.

This application is being forwarded 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 prior-filed nonprovisional application(s).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

Paper No. 8

APR 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ATTN: Michael H. Jester
505D Grand Caribe Causeway
Coronado CA 92118-3303

In re Application of
Clive Winkler
Application No. 10/216,939
Filed: August 12, 2002
For: METHOD AND APPARATUS FOR TRANSFERRING MULTIPLE SYMBOL STREAMS AT LOW BIT-ERROR RATES IN A NARROWBAND CHANNEL

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 March 03, 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 22298 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Central Files to await an examination in appropriate turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Thomas E. Coverstone
Townsend & Townsend & Crew
12730 High Bluff Drive, Suite 400
San Diego, CA 92030

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-09

SHYH-JEN WANG
VETERANS GENERAL HOSPITAL
DIVISION OF EXPERIMENTAL SURGERY
NO. 201 SHIH-PAI RD SECTION LL
TAIPEI 11217
TAIWAN

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Shyh-Jen Wang	:	DECISION ON PETITION TO
Application Number: 10/216961	:	WITHDRAW HOLDING OF
Filing Date: 08/06/2002	:	ABANDONMENT
Attorney Docket Number:	:	
AUXILIARY SURGERY TOOL FOR	:	
PROTRUDING RESECTED PART	:	

This is a decision on the "Petition to Request for Reconsider" filed on August 14, 2009, which is treated as a petition filed under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on November 2, 2008, for failure to timely submit a proper reply to the final Office action mailed on August 1, 2008, which set a three (3)-month shortened statutory period for reply. On August 7, 2008, an amendment after final rejection was filed. On September 23, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on August 7, 2008, fails to place this application in condition for allowance. On December 15, 2008, a proposed Request for Continued Examination was filed, accompanied by the RCE fee. No extension of time fee, however, was submitted with the RCE Request filed on December 15, 2008.

On June 12, 2009, a Notice Requiring Extension of Time Fee was mailed stating that a fee for an extension of time was required in order to make the RCE proper for entry.

On June 22, 2009, the extension of time fee was filed.

On August 13, 2009, however, a Notice of Abandonment was mailed, stating the application was abandoned for failure to timely pay the extension of time fee for the RCE filed on December 15, 2008,

which is more than 6 months from the final rejection mailed on August 1, 2008.

On August 14, 2009, the subject petition was filed.

Petitioner asserts, in essence, that the Office erred in informing him that extensions of time were available when no such extensions of time could be purchased.

35 U.S.C. 133 states that 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

As such, the RCE Request filed on December 15, 2008, required a two (2)-month extension of time. As a proper extension of time fee was not filed at the time the RCE Request was filed, and prior to the expiration of the period six (6)-months from the mailing of the final rejection, the request was untimely, and the application became abandoned.

Petitioner's argument has been considered, but is not convincing. It is the responsibility of the applicant, not the Office to ensure that all Office fees are timely paid. 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 the Office'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 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(which the Office attempts to notify applicants of deficiencies in their responses in a manner permitting timely correction, the Office has no obligation to notify parties of the deficiencies in their responses in a manner permitting timely correction.) Accordingly, the failure to timely submit the extension of time fee was a failure of the applicant, not the Office.

Nevertheless, the Office regrets that applicant *pro se* was not informed of the need for an extension of time prior to the expiration of the extendable period for reply.

As the extension of time fee was received after the maximum extendable period for reply under 37 CFR 1.136(a) had expired, the extension of time fee is unnecessary and may be either applied towards a petition to revive under 37 CFR 1.137(b), or refunded to petitioner. A copy of this decision should accompany petitioner's request for either a refund of the extension of time fee or request to apply the fee towards a petition to revive.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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[1] 37 CFR 1.181(f).

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#7

OCT - 9 2003

ESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of	:
Timothy Barberich et al	:
Serial No.: 10/216,962	: WITHDRAWAL OF ABANDONMENT
Filed: August 12, 2002	:
Attorney Docket No.: 0701.114	:

This is in response to the petition under 37 CFR 1.181, filed September 23, 2003, requesting withdrawal of abandonment based on a timely filed reply.

A review of the file history shows the examiner mailed a non-Final Office action to applicants on October 8, 2002, setting a three month shortened statutory period for reply. When no reply was received the examiner mailed a Notice of Abandonment to applicants on July 10, 2003. Applicants state that they replied timely on April 8, 2003 (Certificate of Mailing date), including a three month extension of time request and fee. Office records fail to indicate receipt by the Office of the amendment and extension of time fee. The copy of the original amendment supplied with the petition will be used in lieu thereof. The extension of time fee will be charged in due course to applicants' Deposit Account as directed. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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OFFICE OF THE DIRECTOR
TC 3600

John F. Salazar
Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, KY 40202

In re application of:
R. Amil Kleinert
Application No. 10/216,972 : **DECISION ON REQUEST**
Filed: August 12, 2002 : **FOR WITHDRAWAL OF**
For: TREE AND SHRUB PEST CONTROL DEVICE : **ATTORNEY**

This is a decision on the request filed on January 12, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition A), the attorney signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 10/25/04

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Jonathan Louis Trent
P. O. Box 1321
California, MD 20619

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MAY 11 2005
OFFICE OF PETITIONS

In re Application of	:	
Jonathan L. Trent	:	
Application No. 10/216,975	:	ON PETITION
Filed: August 12, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on April 19, 2004, which set a 3 (three) month shortened statutory period for reply. As no reply was timely received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on July 20, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114. Receipt of the RCE is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800 for processing the RCE filed with the instant petition.

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
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DAVIDSON, DAVIDSON &
KAPPEL, LLC
485 SEVENTH AVENUE, 14TH
FLOOR
NEW YORK, NY 10018

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of

Udell, et al.

Application No. 10/216,979

Filed: August 12, 2002

Attorney Docket No. 209.1099CON

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed November 24, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed January 30, 2006. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on May 1, 2006. A Notice of Abandonment was mailed on November 9, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on November 24, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,457,752	:	
Oudeyer	:	DECISION ON
Issue Date: November 25, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/217,002	:	OF
Filed: August 12, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 282460US8X// 335949US8SD/jkl	:	

This is in response to the "**PETITION NDER(sic) 37 C.F.R. §1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**," filed January 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred forty-nine (749) days to one thousand twenty-eight(1,028)days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On November 25, 2008, the above-identified application matured into U.S. Patent No. 7,457,752 with a patent term adjustment of 749 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 279 days of the 360 days, does not overlap with the period of adjustment due to examination delay, pursuant to 37

CFR §1.702(a), of 782 days, because these periods do not occur on the same day.

The Three Year Delay period is calculated based on the application having been filed under 35 U.S.C. §111(a) on August 12, 2002, and a request for continued examination (RCE) having being filed on August 7, 2006. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Accordingly, the period of adjustment under § 1.702(b) is 360 days, counting the number of days beginning on August 13, 2005 and ending on August 7, 2006.

The 782 day period, pursuant to 37 CFR 1.702(a) is the sum of:

- a period of delay of 751 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and

- a period of delay of 31 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2)

Under 37 CFR § 1.703(f), patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicant failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 33 days for applicant delay is not in dispute[1].

Patentee agrees that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (360 days) and the period of Examination Delay (782 days) to the extent that these periods of delay are not overlapping.

---

[1] The periods of reduction include pursuant to 37 CFR 1.704(b), 31 days for response filed on August 7, 2006 and 2 days for response filed on June 25, 2007.

Patentee contends that 81 days of the period of delay of 360 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (October 13, 2003 to November 1, 2005) overlaps with the Three Year Delay period (August 13, 2005 to August 7, 2006). Patentee asserts that this overlapping period is the 81 days running from August 13, 2005 to November 1, 2005.

Accordingly, patentee submits that the total period of Office Delay is 1061 days, which is the sum of the period of Three Year Delay (360 days) and the period of Examination Delay (782 days), reduced by the period of overlap (81 days).

As such, patentee asserts entitlement to a patent term adjustment of 1,028 days (360 + 782 reduced by 81 overlap - 33 days (applicant delay)).

The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 782 days is correct. At issue is whether applicant should accrue 279 days of patent term adjustment (per patentee's definition of overlap) for the Office taking in excess of three years to issue the patent, as well as, 782 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that all 360 days overlap. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of

> adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the

rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154 (b)(1)(A) (the "fourteen-four-four-four-" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on August 7, 2006. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from the filing of the application on August 12, 2002, to the filing of the RCE, on August 7, 2006. Thus, only the 751 days of patent term adjustment accorded prior to the filing of the RCE for the Office failing to respond within specified time frames is considered in determining overlap. The 31 days for Office delay occurring subsequent to the filing of the RCE is not considered. The 360 days attributed to Office delay pursuant to 37 CFR 1.702(b) for failure to issue the patent within three years is determined to overlap with the 751 days attributed to Office delay pursuant to 1.702(a)(1). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. 782 (751 + 31) days was determined to be the actual number of days the issuance of the patent was delayed.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 749 days (782 - 33).

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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,457,752	:	DECISION ON REQUEST
Oudeyer	:	FOR
Issued: November 25, 2008	:	RECONSIDERATION OF
Application No. 10/217,002	:	PATENT TERM ADJUSTMENT
Filed: August 12, 2002	:	and
Atty Docket No. 282460US8X//	:	NOTICE OF INTENT TO ISSUE
335949US8SD/jkl	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on July 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-seven (1,028) 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 twenty-seven (1,028) 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 13, 2005 and ends on August 6, 2006, the day before the RCE was filed, and is 359 (not 360) days. See 35 U.S.C. 154(b)(1)(B)(i). Taking the 81 days of overlap into consideration, the patent term adjustment is 1,027, not 1,028 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 application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand twenty-seven (1,027)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,457,752 B2

DATED : November 25, 2008

INVENTOR(S) : Pierre-Yves Oudeyer

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (749) days

Delete the phrase "by 749 days" and insert – by 1,027 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 24 2009

OFFICE OF PETITIONS

ROLAND H. SHUBERT
POST OFFICE BOX 2339
RESTON, VA 20195

In re Patent No. 6,771,066	:	
Issue Date: August 3, 2004	:	
Application No. 10/217,004	:	ON PETITION
Filed: August 12, 2002	:	
Patentee(s) John B. Rippingale	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 5, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PATENT & TRADEMARK OFFICE

11-06-9

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)

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OFFICE OF PETITIONS

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. US 6,771,066 Application Number 10/217,004

Issue Date 08/03/2004 Filing Date 08/12/2002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above – identified patent

11/10/2009 DALLEN 00000005 6771066
01 FC:1599 2130.00 OP

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

12/24/2009 CKHLOK 00000001 6771066
01 FC:2551 430.00 OP
02 FC:1555 1640.00 OP

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

November 5, 2009
Date

Signature

ROLAND H. SHUBERT
Typed or Printed Name of Person Signing Certificate

Adjustment date: 12/24/2009 CKHLOK
11/10/2009 DALLEN 00000005 6771066
01 FC:1599 -2130.00 OP

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

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1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1,640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ _____

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $ _____

☑ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____

OR

☑ Send refund check

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WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Signature(s) of Petitioner(s) — Date: November 5, 2009

ROLAND H. SHUBERT
Typed or printed name(s)

24,639
Registration Number, if applicable

703-435-4141
Telephone Number

POST OFFICE BOX 2339
Address

RESTON, VA 20195
Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☑ Maintenance Fee Payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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William P. Glenn, Jr.
Suite 205
2102 Mechanic Street
Galveston TX 77550

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OFFICE OF PETITIONS

In re Application of :
Juan Ruiz :
Application No. 10/217,007 : DECISION ON PETITION
Filed: August 12, 2002 :
Attorney Docket No. 03048.48853 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply to a non-final Office Action mailed March 9, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was received on June 15, 2004. A Notice of Non-Compliant Amendment 37 CFR 1.121 was mailed on June 24, 2004 setting a one month extendable time period for reply. A reply to the Notice of Non-Compliance was submitted on January 24, 2005. A Failure to Acceptably Respond to a Notice of Non Compliant Amendment 37 CFR 1.121 was mailed on June 10, 2004. Accordingly, this application became abandoned on July 25, 2004. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571)272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/27/06

TO SPE OF : ART UNIT 2131

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/217017** Patent No.: **6986161**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — 2131 Art Unit

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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STERNE, KESSLER, GOLDSTEIN
& FOX P.L.L.C.
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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JUL 25 2008

In re Application of	:	
James C. LUNDBERG, et al	:	
Application No. 10/217,044	:	DECISION ON PETITION
Filed: August 12, 2002	:	
Attorney Docket No. 2222.4390001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 31, 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 February 1, 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 $1540; and (3) the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2165 for appropriate action by the Examiner in the normal course of business on the reply received November 29, 2007.

Cliff Bottich

for Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 0 3 2005

OFFICE OF PETITIONS

Lynn A. Buckner
P.O. Box 609
Chickamauga, GA 30707

In re Application of :
Lynn Allan Buckner :
Application No. 10/217,055 : ON PETITION
Filed: August 12, 2002 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(a), filed December 7, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the final Office action mailed May 14, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Although a response was received on August 17, 2004, it was not received within the allowed period and the application became abandoned on August 15, 2004. A Notice of Abandonment was mailed on November 19, 2004.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1) and (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

As to item (1), the reply required must be responsive to the final Office action mailed May 14, 2004, and may include either an amendment that places the application in condition for allowance or a Request for Continued Examination. Although a response was filed on August 17, 2004, Examiner Christopher Novosad has determined that the amendment will not be entered because it does not place the application in condition for allowance. Petitioner must, therefore, file an amendment that places the application in condition for allowance or a Request for Continued Examination with any renewed petition filed.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., 1st class postage, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

If petitioner used the certificate of mailing procedures under 37 CFR 1.8 and had an appropriate certificate of mailing on the amendment and petitioner was able to provide the Office with a copy of the same, the amendment would have been accorded a filing date as of the date of the certificate of mailing. Further, if petitioner was able to provide a copy of the Express Mail label of the package that was used to send the amendment via Express Mail and the other procedures under 37 CFR 1.10 were followed, the amendment would have been accorded a filing date as of the date-in as found on Express Mail label. The delay in filing a reply to the final Office action cannot be considered unavoidable as it could have been avoided with the appropriate use of either the procedures under 37 CFR 1.8 or the procedures under 37 CFR 1.10. Petitioner's attention is called to Section 711.03(c)(2) of the *Manual of Patent Examining Procedure*

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[8] See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

(MPEP) which reads, in pertinent part, " . . . a reasonably prudent person would file papers or fees in compliance with 37 CFR 1.8 of 1.10 to ensure the timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by applicant's failure to file papers or fees in compliance with 37 CFR 1.8 or 1.10 does not constitute unavoidable delay." It may be concluded, therefore, that petitioner's failure to file the reply in compliance with 37 CFR 1.8 and/or 1.10 implies imprudence in the prosecution of the application which defeats petitioner's claim that the delay in filing the required reply was unavoidable. The petition is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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OFFICE OF PETITIONS

In re Application of

Lynn Allan Buckner

Application No. 10/217,055

Filed: August 12, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed May 14, 2004, which set a shortened statutory period for reply of three months from its mailing date. Although a response was received on August 17, 2004, it was not received within the allowed period, and the application became abandoned on August 15, 2004. A Notice of Abandonment was mailed on November 19, 2004.

Examiner Novosad has determined that the amendment filed April 11, 2005, places the application in condition for allowance.

The application is being forwarded to Technology Center 3600, GAU 3671 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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DEC 3 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,888,406	:	
Issue Date: May 3, 2005	:	NOTICE
Application No. 10/217,076	:	
Filed: August 12, 2002	:	
Attorney Docket No.	:	
49581/P039US/10206137	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 9, 2005.

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."

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted.** The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that an investigation was performed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Bunk et al.	:	
Application No. 10/217,080	:	ON PETITION
Filed: 08/12/2002	:	
Attorney Docket No. 01029	:	
	:	

This is a decision in reference to the petition under 37 CFR 1.181 filed on 6 November, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application was held abandoned on 3 June, 2006, for failure to submit a timely response to the final Office action mailed on 2 March, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 4 October, 2006.

Petitioners assert that a reply was filed on 2 May, 2006. In support, petitioners have provided a copy of an amendment after final rejection bearing a certificate of mailing dated 2 May, 2006.

Upon a review of the record, the response, filed on 5 May, 2006, with a certificate of mailing dated 2 May, 2006, has been located and matched with the file. The amendment which was filed on 5 May, 2006, however, is not a proper reply to the final Office action mailed on 2 March, 2006. Specifically, the examiner has determined that the amendment fails to place the application in condition for allowance. An Advisory Action is enclosed with this decision.

In this regard, petitioners should note that a proper response to a final rejection (such as the Office action of 2 March, 2006) must be in the form of a Notice of Appeal, a Request for Continuing Examination (RCE) and submission under 37 CFR 1.114, or a continuation application. The filing of an amendment

placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. While the Office attempts to promptly respond to an amendment after final, there are those instances where delays do occur, as in the instant application. However, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petitioners received an Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. As such, this application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

The petition is **DISMISSED.**

The petitioners may want to consider filing a petition to revive under 37 C.F.R. 1.137(b), accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] 37 CFR 1.181(f).

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

Encl: Advisory Action Before the Filing of an Appeal Brief

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/217,080	Applicant(s) BUNK ET AL.	
	Examiner Vinit H. Patel	Art Unit 1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has argued pricipally that claims 17-19 are not anticipated by McCallister, USP 4,315,893, based on the argument that does not contain the elements of a heat pipe having evaporative and condensing sections and that catalyst is not coated on the exterior of the heat pipe. With regard to the heat pipe, it is well known and principally inherant in the art that a heat pipe conventionally functions as having a high temperature end and low temperature end, wherein a high temperature end is also commonly known as a evaporator section and a low temperature end is known as a condenser section. These sections inherently exist on a heat pipe in order for the heat pipe to function in a proper manner, as evidenced by Grover, USP 4,020,898 at Col. 4, Lines 49-63 (cited only to give Applicant background on the inherent functioning of a heat pipe). Therefore this element is anticipated by McCallister. McCallister further teaches catalyst coating on the heat fins (the outer surfact of the heat pipe) on the heat pipe, and thus the outer surface of the heat pipe. Applicant's claims do not differ from the prior art teachings on this element either, and therefore the rejection remains. With regard to claims 2-5, 8-14 and 16, Applicant has argued that Woods, USP 6,835,354 in view of Olsen et al., Unit Proc. & Prin. of Chem. Eng. does not render obvious Appicant's claim because there is no teaching or suggestion to combine. The arguments presented in the action dated March 2, 2006 are maintained. With regard to claims 6 and 7, Applicant argues it would have not been obvious to modify Woods with Hoke, USP 4,799,537, as there is no motivation to combine. Rationale to combine different from Applicant's is permissible. See MPEP 2144. Woods is modified with Hoke to provide a self regulating heat pipe which provides the advantage of utilizing a heat pipe that does not require an outside thermostatic control, The rejection of claims 6 and 7 are maintained.

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OFFICE OF PETITIONS

In re Application of	:	
Bunk et al.	:	
Application Number: 10/217080	:	DECISION ON PETITION
Filing Date: 08/12/2002	:	
Attorney Docket Number: 01029	:	

This is a decision on the petition filed on 3 July, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 3 June, 2006, for failure to timely file a proper reply to the final Office action mailed on 2 March, 2006, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 5 May, 2006, but was determined not to place the case in condition for allowance. Notice of Abandonment was mailed on 4 April, 2007. The petition to withdraw the holding of abandonment filed on 6 November, 2006, was dismissed on 30 January, 2007.

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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)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 1764 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
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CARLSON, CASPERS, VANDENBURGH & LINDQUIST
225 SO. 6TH STREET
SUITE 3200
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of
Li Cai, et. al.
Application No. 10/217,089
Filed: August 12, 2002
Attorney Docket No. 980.1118US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on December November 8, 20007, to revive the above-identified application.

The application became abandoned for failure to timely file a proper response to the final Office action mailed September 25, 2006. A Notice of Abandonment was mailed on October 2, 2007.

It is not apparent whether 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 Iain A. McIntyre appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition is **DISMISSED.**

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

It is noted that the instant petition fails to contain the statement required by 37 CFR 1.137(b), which states 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. Therefore, it is recommended that petitioner use form PTO/SB/64, which can be located on the website at www.uspto.gov.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARLSON, CASPERS, VANDENBURGH & LINDQUIST
225 SO. 6TH STREET
SUITE 3200
Minneapolis, MN 55402

COPY MAILED
AUG 19 2008

In re Application of	:	
Li Cai, et. al.	:	
Application No. 10/217,089	:	ON PETITION
Filed: August 12, 2002	:	
Attorney Docket No. 980.1118US01	:	
	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on July 31, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Finance records show that the Office charged petitioner's deposit account an additional petition fee of $1,540 on July 31, 2008. Since there is no additional fee required for a renewed petition under 37 CFR 1.137(b), this fee will be refunded.

This application file is being referred to Technology Center Art Unit 2814 for appropriate action by the Examiner in the normal course of business on the reply received November 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARLSON, CASPERS, VANDENBURCH & LINDQUIST
225 SO. 6TH STREET
SUITE 3200
MINNEAPOLIS MN 55402

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In re Application of	:	
Li Cai et al	:	
Application No. 10/217,089	:	DECISION ON PETITION
Filed: August 12, 2002	:	
Attorney Docket No. 980.1118US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 12, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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APR 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Stuart G. MacDonald	:	
Application No. 10/217,093	:	DECISION ON PETITION
Filed: August 12, 2002	:	TO WITHDRAW
Attorney Docket No. SGM-3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The petition is **NOT APPROVED** as moot

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3763.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BUCHANAN INGERSOLL
(INCLUDING BURNS DOANE SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TROP, PRUNER & HU, P.C.
8554 Katy Freeway
Suite 100
Houston, TX 77024-1805

MAIL

NOV 1 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Michael WITKOWSKI
Application No. 10/217,098
Filed: August 12, 2002
For: METHOD AND APPARATUS FOR SWITCH FABRIC CONFIGURATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 13, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Saria Tseng
General Counsel
MaXXan Corporation
1975 Concourse Drive
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Christopher Cave	: DECISION ON REQUEST FOR
Patent Number	: 7590386	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/217,126	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **631** 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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Alexandria, VA 22313-1450
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MAR 0 2 2007

OFFICE OF PETITIONS

Fulbright & Jaworski LLP
220 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784

In re Application of
Mudd et al.
Application No. 10/217,~~419~~ 149
Filed: August 12, 2002
Attorney Docket 63134/P003US/10208595

: DECISION GRANTING-IN-PART
:PETITION

This decision is in response to Applicants' "Application for patent term adjustment under37 CFR 1.705(b)" timely[1] filed on OCTOBER 30, 2006 requesting that the Patent Term Adjustment be adjusted from a determination of 440 days to a determination of 443 days.

Applicants' petition is **GRANTED-IN-PART**. The Office will also adjust the PTA calculation reflected in PAIR to reflect a determination of 515 days at the time of the notice of allowance.

Applicants argue that the Office erred in assessing a 75 day reduction for IDS submission. Applicants assert that the IDS was received in the Office on April 14, 2006 not April 17, 2006. Accordingly, applicants assert that the reduction should have been only 72 days not 75.

Applicants arguments are persuasive to the extent herein indicated. It is noted that the correct date of the IDS was April 14, 2006. However, the record reflects that the Office reopened prosecution on March 13, 2006 and accordingly the IDS submission should not have been considered a supplemental paper submission. The record reflects that applicants filed a notice of appeal with a request for a pre-appeal brief conference. On March 13, 2006, the decision of the pre-appeal brief conference reopened prosecution. Accordingly, the submission of the IDS would have been prior to applicant response.

After review of this decision, this application will be forwarded to the PUBS branch for a prompt issuance of the patent. Any delays by the USPTO pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be accredited to applicant at the time of the issuance of the patent and will be reflected in the issue notification letter.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

---

[1]Issue fee paid on 12/11/2006.

Application No. 10/217,149

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation

Day : Saturday
Date: 2/24/2007

PALM INTRANET

Time: 13:13:05

PTA Calculations for Application: 10/217149			
Application Filing Date:	08/12/2002	PTO Delay (PTO):	515
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	75
Post-Issue Petitions:	0	Total PTA (days):	515
PTO Delay Adjustment:	75		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	02/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	75		
49	10/03/2006	MAIL NOTICE OF ALLOWANCE			
48	09/22/2006	ISSUE REVISION COMPLETED			
47	09/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	09/18/2006	NOTICE OF ALLOWABILITY			
45	04/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	08/08/2006	DATE FORWARDED TO EXAMINER			
43	07/28/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
42	06/29/2006	MAIL RESTRICTION REQUIREMENT			
41	06/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
40	05/18/2006	DATE FORWARDED TO EXAMINER			
39	05/10/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
38	04/14/2006	REFERENCE CAPTURE ON IDS			
37	04/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		75	29
36	04/19/2006	MAIL RESTRICTION REQUIREMENT			
35	04/17/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
34	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
33	03/13/2006	DATE FORWARDED TO EXAMINER			
32	03/13/2006	MAIL APPEALS CONF. REOPEN PROSEC.			
31	03/08/2006	APPEALS CONF. DECISION, REOPEN PROSEC.			
30	02/01/2006	REQUEST FOR APPEAL CONFERENCE FILED			
29	02/01/2006	NOTICE OF APPEAL FILED			
28	12/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
27	11/28/2005	FINAL REJECTION			

26	10/05/2005	DATE FORWARDED TO EXAMINER			
25	09/27/2005	RESPONSE AFTER NON-FINAL ACTION			
24	07/01/2005	MAIL NON-FINAL REJECTION			
23	06/27/2005	NON-FINAL REJECTION			
22	05/11/2005	DATE FORWARDED TO EXAMINER			
21	04/26/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
20	04/26/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	03/10/2005	MAIL RESTRICTION REQUIREMENT	515		-1
18	03/07/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
17	11/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/02/2004	REFERENCE CAPTURE ON IDS			
15	02/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/23/2002	NEW OR ADDITIONAL DRAWING FILED			
13	11/15/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	12/12/2002	APPLICATION DISPATCHED FROM OIPE			
9	12/09/2002	APPLICATION IS NOW COMPLETE			
8	11/22/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	11/22/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	09/23/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	09/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	08/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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JUL 0 8 2004
OFFICE OF PETITIONS

In re Application of:	
Choo et al.	
Application No. 10/217,160	DECISION GRANTING
Filed: August 13, 2002	PETITION UNDER
Title of Invention: X-RAY DETECTOR AND METHOD OF FABRICATING THE SAME	37 CFR 1.47(a)

This is in response to the Petition and Submission of Declaration, filed April 9, 2004, which is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Ky-Soep Choo, cannot be found or reached.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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 – 8 2005

MILLEN, WHITE, ZELANO & BRANNIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Ina Scherlitz-Hofmann	:
Serial No.: 10/217,165	: PETITION DECISION
Filed: August 13, 2002	:
Attorney Docket No.: GULDE-1	:

This is in response to the petition under 37 CFR 1.181, filed January 7, 2005, requesting withdrawal of the Final rejection.

A review of the file history shows that the examiner mailed a non-Final Office action to applicant on January 26, 2004, setting a three month shortened statutory period for reply, which set forth a rejection of claims 10-13 under 35 U.S.C. 103(a) over WO 01/18028. No other rejection was set forth; claims 1-9 were withdrawn from consideration following a restriction requirement. Applicant filed a reply on July 27, 2004, including a request and fee for a three month extension of time. The amendment made a minor change in claims 1(withdrawn), 10 and 12 and added claims 13-14, and responded to the rejection of record.

The examiner mailed a Final Office action to applicant on December 13, 2004, withdrawing (by not repeating) the previous rejection of record and setting forth a new rejection under 35 U.S.C. 112, first paragraph, of claims 12-14, for lack of enablement and also a new rejection of claims 10-14 under 35 U.S.C. 103(a) over Tanabe (US 6,046,186). Neither the new rejection of claim 12 under 35 U.S.C. 112, nor the rejection of claims 10-12 under 35 U.S.C. 103(a) over a new reference was necessitated by applicant's amendments. In view thereof the action was improperly designated a Final Office action.

The petition is **GRANTED.**

The Office action mailed December 13, 2004, is hereby redesignated a non-Final Office action. Applicant remains under obligation to respond thereto within the time period set therein or as may be extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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Paper No. 8

W. EDWARD JOHANSEN
11661 SAN VICENTE BOULEVARD
LOS ANGELES, CA 90049

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OFFICE OF PETITIONS

In re Application of	:	
Kevin L. Glikmann	:	
Application No. 10/217,194	:	ON PETITION
Filed: August 9, 2002	:	
Attorney Docket No. GLIKMANN#3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 15, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on August 15, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 3700, Art Unit 3711 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

Baker Botts L.L.P.
One Shell Plaza
910 Louisiana
Houston, TX 77002-4995

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OFFICE OF PETITIONS

In re Application of :
Goudaliez, et al. : DECISION ON PETITION
Application No. 10/217,205 :
Filed: August 12, 2002 :
Atty. Dkt. No.: 073510.0108 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 8, 2003.

The application became abandoned November 11, 2002 for failure to timely reply to the Notice to Missing Parts of Nonprovisional Application ("Notice") mailed September 10, 2002. The Notice set a two (2) month shortened statutory period for reply. This decision precedes Notice of Abandonment.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice mailed September 10, 2002 is accepted as having been unintentionally delayed.

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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Huchzermeier et al.
Application No.10/217,240
Filed: August 9, 2002
Attorney Docket No. 201549/1011

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c)[1] filed on December 20, 2002, requesting that the above-identified application be accorded a filing date of August 9, 2002, rather than the presently accorded filing date of August 13, 2002.

Petitioner alleges that the application was deposited in Express Mail service on August 9, 2002. In support, on December 20, 2002, petitioner supplied a copy of Express Mail receipt No. EV138581930US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service official postmark dated August 9, 2002.

In view of the above, the petition is granted. No petition fee is required.

Petitioner is reminded the Notice of Missing Parts mailed on September 5, 2002 setting an extendable two (2) month period of reply of November 5, 2002 to supply an executed oath or declaration with the accompanying late oath or declaration fee continues to run. Failure to respond to the Notice of Missing parts with the appropriate request for extension of time will result in the **abandonment** of this application.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **August 9, 2002** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Charlema R. Grant
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The petition was originally filed under 37 CFR. 1.10 (d) but is being treated under 37 CFR 1.10 (c). A petition under 37 CFR 1.10 (d) is appropriate where petitioner contends the USPS notation was incorrectly entered.

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CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO FL 32802-3791

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OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Jay Billhartz	:	
Application No. 10/217,243	:	DECISION GRANTING PETITION
Filed: August 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GCSD-1329(51287)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 23, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2616 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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

MICHAEL L. GOLDMAN
NIXON PEABODY
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

COPY MAILED
JUN 2 5 2003
OFFICE OF PETITIONS

In re Application of	:	
Steven A. Goldman et al	:	
Application No. 10/217,252	:	NOTICE
Filed: August 9, 2002	:	
Attorney Docket No. 19603/3721(CRF D-2807A)	:	

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 1632.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Paper No. 5

HORST KASPER
13 FOREST DRIVE
WARREN NJ 07059

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JAN 24 2003

OFFICE OF PETITIONS

In re Application of	:
Beurer et al.	:DECISION GRANTING PETITION
Application No. 10/217,257	:
Filed: 12 August, 2002	:
Attorney Docket No. FLA 203	:

This is a decision on the petition filed on 30 December, 2002, which is treated as a petition requesting that the above-referenced application be accorded a filing date of 12 August, 2002, with Figures 4A-C, 5A-B, and 6 as a part of the original disclosure.

The petition is **GRANTED**

The application was filed on 12 August, 2002. On 28 October, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of 12 August, 2002, but that Figures 4, 5, and 6 described in the specification appeared to have been omitted from the application.

In response, on 30 December, 2002 (certificate of mailing date 24 December, 2002), the present petition was filed, accompanied by, *inter alia*, two (2) sheets of drawings containing Figures 4A-C, 5A-B, and 6. Petitioners assert that Figures 4A-C, 5A-B, and 6 described in the specification were included in the German priority document filed concurrently with the original application papers on 12 August, 2002.

A review of the priority document submitted on 12 August, 2002, reveals that it does include two (2) sheets of drawings containing Figures 4A-C, 5A-B, and 6 which appear to be identical to the two (2) sheets of drawings containing Figures 4A-C, 5A-B, and 6 which were intended to be filed on 12 August, 2002, and which appears to correspond to the figures described in the

specification. Accordingly, on petition, the drawings of Figures 4A-C, 5A-B, and 6 in the German priority document will be construed as the drawing of Figures 4A-C, 5A-B, and 6 described in the specification for filing date purposes.

The copy of Figures 4A-C, 5A-B, and 6 supplied with the present petition will be used for processing and examination. As the Notice correctly stated that Figures 4, 5, and 6 *appeared* to have been omitted, the petition fee of $130.00 will not be refunded.

Petitioners' statement that "[a]pplicants are herewith submitting the copies of the allegedly missing items" is being construed as a statement in accordance with 37 CFR 1.52(d) that the copy of Figures 4A-C, 5A-B, and 6 is a complete copy of Figures 4A-C, 5A-B, and 6 included in the German priority document filed with the original application papers. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application will be processed and examined with a filing date of 12 August, 2002, using the application papers filed on 12 August, 2002, and the copy of two (2) sheets of drawings containing Figures 4A-C, 5A-B, and 6, supplied on 30 December, 2002.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 12 August, 2002, using the application papers filed on 12 August, 2002, and the copy supplied on 30 December, 2002, of the two (2) sheet of drawings containing Figures 4A-C, 5A-B, and 6 in the German priority document filed with the present application on 12 August, 2002, and for an indication in Office records that three (3) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE JC110
JUL 1 8 2005
PATENT & TRADEMARK OFFICE

10/217,273

C of C

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: July 13, 2005 Signature: (Chirag B. Patel)

Docket No.: 28349/38146
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Huai R. Yi

Patent No.: 6,894,584

Issued: May 17, 2005

For: THIN FILM RESONATORS

Certificate
JUL 2 1 2005
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

On the Title Page:

OK

Under item number 73, Assignee (Assignment Recordation and Assignment submitted October 22, 2002), please delete "Isco" and replace with –ISCO--.

In the Claims:

Please delete claims 14, 18, 25, and 26 from the patent as requested in the Amendment dated April 20, 2004 (claims listed as numbers 6, 11, 16, and 17).

The errors were not in the application as filed by applicant; accordingly no fee is required.

JUL 2 2 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/30/2006

TO SPE OF : ART UNIT 2800 (2819)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,894,584

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to delete claims as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
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:

Approved; 08/20/08

Rexford Barme — **SPE**

2819 — **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,619,049	2003-09-16	10/217,366	2002-08-12	02170-URSX

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	/Jason Z. Lin/	Date (YYYY-MM-DD)	2008-04-15
Name	Jason Z. Lin	Registration Number	37492

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. 6619049
Issue Date: September 16,2003
Application No. 10217366
Filed: August 12,2002
Attorney Docket No. 02170-URSX

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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SEP 15 2003

OFFICE OF PETITIONS

ON PETITION

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

In re Application of
Hong
Application No. 10/217,401
Received: August 14, 2002
Attorney Docket No.: P66764US1

The above-identified application has been referred to the Office of Petitions for review of the "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION FILED UNDER 37 C.F.R. §1.53(b)," filed October 1, 2002. This response is being treated as a petition to accord the application a filing date of August 14, 2002.

The above-identified application was received by the USPTO on August 14, 2002. On September 10, 2002, a Notice of Incomplete Nonprovisional Application ("Notice") was mailed indicating, *inter alia*, that the application had not been accorded a filing date because the specification did not include at least one claim in accordance with 35 U.S.C. 112. The Notice indicated that the filing date would be the date of receipt of the claim(s). Any assertion that the claim(s) was submitted or was unnecessary for a filing date required a petition and petition fee. A duplicate Notice was mailed October 17, 2002.

Petitioner argues that the application as submitted included the specification and abstract from prior application 09/882,284. Petitioner has included as evidence of submission a return postcard date stamped August 14, 2002 by the USPTO. Petitioner has not submitted a copy of the claim(s) and abstract.

The argument and evidence have been considered, but are not persuasive. The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. A postcard receipt will not serve as *prima facie* evidence of receipt of any item not adequately itemized on the postcard. In addition, the mere incorporation by reference in the postcard receipt of the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items. See, MPEP 503.

The copy of the postcard submitted herewith fails to adequately itemize the items purportedly filed. The postcard does not include any application identifying information, such as the title of invention, the number of pages of specification, claims (for nonprovisional applications), and sheets of drawing. As a result, the postcard is not accepted as *prima facie* evidence of receipt on August 14, 2002 of the claim(s).

The petition is accordingly **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** 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." This is not a final agency decision. Any renewed petition should include a copy of the claim(s) and abstract.

Further correspondence in regards to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

COPY MAILED

DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Hong :
Application No. 10/217,401 : ON PETITION
Receipt Date: August 14, 2002 :
Attorney Docket No.: P66764US1 :

This is a decision on the renewed petition filed October 9, 2003, requesting that the above-identified application be accorded a filing date of August 14, 2002.

The application was received by the USPTO on August 14, 2002. On September 10, 2002, a Notice of Incomplete Nonprovisional Application ("Notice") was mailed indicating, *inter alia*, that the application had not been accorded a filing date because the specification did not include at least one claim in accordance with 35 USC 112. The Notice indicated that the filing date would be the date of receipt of the claim(s). Any assertion that the claim(s) was submitted or was unnecessary for a filing date required a petition and petition fee. A duplicate Notice was mailed October 17, 2002. A petition was submitted October 1, 2002 and dismissed September 15, 2003.

Petitioner continues to argue that the postcard date stamped August 14, 2002 by the USPTO serves as evidence of the submission of a complete application on August 14, 2002, including the written portion of the application and the non-written portion of the application. The renewed petition includes a copy of the application, including eighteen (18) pages of specification, claims, and abstract and seven (7) sheets of drawings.

The argument and evidence submitted by petitioner have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

A review of the official file reveals that thirteen (13) pages of specification, seven (7) sheets of drawings, four (4) page transmittal letter, two (2) page Information Disclosure Statement, one (1) page Form PTO-892, one (1) page declaration and power of attorney, and three (3) page assignment document were received August 14, 2002.

Omitted from the items submitted August 14, 2002 were claims and an abstract as indicated in the Notice.

The declaration of Yoon S. Ham relies upon the declarants' recall of routine events that occurred approximately fourteen (14) months earlier and are not more persuasive than the record of what was filed as shown in the official file. Accordingly, the fact that petitioner believes the written portion of the application included claims is not more persuasive than the actual papers shown to have been received by the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

In accordance with MPEP 503, a properly itemized postcard should include applicant's name(s); title of invention; number of pages of specification, claims (for nonprovisional applications), and sheets of drawing; whether oath or declaration is included; a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and amount and manner of paying the fee.

Petitioner's postcard fails to indicate the number of pages of specification submitted therefore it cannot be concluded that the specification as submitted included claims.

Petitioner is entitled to a filing date of October 9, 2003, the date the omitted items were submitted. Absent submission of a timely filed renewed petition, this application will be

forwarded to the Office of Initial Patent Examination with a filing date of October 9, 2003.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

COPY MAILED

JAN 13 2003

OFFICE OF PETITIONS

In re Application of
Koyano et al.
Application No. 10/217,433
Filed: August 14, 2002
Attorney Docket No. 50212-394

: DECISION GRANTING PETITION

This is a decision on the petition filed November 8, 2002, requesting, in effect, that pages 14 and 42 of the specification filed on November 8, 2002, be entered as part of the original disclosure.

The petition is **granted**.

A Notice of Omitted Items was mailed on September 11, 2002, stating that pages 14 and 42 of the specification appeared to be missing.

The petition and a copy of pages 14 and 42 were filed on November 8, 2002.

The petition notes that the missing pages are a translation of a Japanese document which was filed with the instant application. A review of the Japanese document indicates that no pages are missing from the Japanese document. The content of pages 14 and 42 of the specification was present on August 14, 2002, in so far as the entire Japanese document was present. Accordingly, on petition, pages 14 and 42 will be entered as part of the original application.

A petition fee will not be charged or will be refunded when a petitioner establishes that the missing pages were in fact present upon filing. Unfortunately, the evidence fails to establish that pages 14 and 42 *of the English translation* were present on August 14, 2002.

A stamped postcard receipt can constitute evidence of the receipt of items properly itemized on the face of the postcard. In this case, the box beside the word "Other" is not checked. Therefore, the evidence does not establish that the person who stamped the postcard verified the items under the heading. For example, the box beside Issue Fee is not checked and the Office did not verify receipt of an Issue Fee payment. In addition, if the Office verified the information under "Other," the Office may have counted the sheets of specification written in Japanese rather than the English translation.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 14, 2002, using the application papers filed on August 14, 2002, and a copy of pages 14 and 42 of the specification filed on November 8, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (HQ) MS 6F-067
WASHINGTON DC 20585-0162

COPY MAILED

DEC 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Randolph J. Dziendziel et al	:	
Application No. 10/217,441	:	ON PETITION
Filed: August 14, 2002	:	
Attorney Docket No. S-89,133	:	

This is a decision on the petition under 37 CFR 1.182, filed October 5, 2006, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This matter is being referred to patent publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/217,441	08/14/2002	1753	1496	S-89,133	10	62	1

CONFIRMATION NO. 1146
CORRECTED FILING RECEIPT
OC000000021684926
OC000000021684926

31972
UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (HQ) MS 6F-067
WASHINGTON, DC 20585-0162

Date Mailed: 12/20/2006

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)

Randolph J. Dziendziel, Middle Grove, NY;
David M. DePoy, Clifton Park, NY;
Paul F. Baldasaro, Clifton Park, NY;

Power of Attorney: The patent practitioners associated with Customer Number **31972**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/314,174 08/23/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/05/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/217,441

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

TANDEM FILTERS USING FREQUENCY SELECTIVE SURFACES FOR ENHANCED CONVERSION EFFICIENCY IN A THERMOPHOTOVOLTAIC ENERGY CONVERSION SYSTEM

Preliminary Class

136

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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MeadWestvaco Corporation
Law Department
4850-D North Church Lane
Smyrna, GA 30080

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Bakx	:	DECISION ON PETITION
Application No. 10/217,503	:	
Filed: August 13, 2002	:	
Atty. Dkt. No.: D-7773-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 2, 2004 for failure to timely reply to the Notice of Drawing Inconsistency With Specification ("Notice") mailed November 1, 2004. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed January 3, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to publishing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No. 6

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OFFICE OF PETITIONS

JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

In re Application of
Eric Wessinger, Kevin Korte and Robin Schlinger
Application No.10/217,509
Filed: August 13, 2002
Attorney Docket No. BW-414-1
Title of Invention: METHOD FOR PROCESSING RECONSTITUTED TOBACCO

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 3, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Eric Wessinger, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via Express Mail. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Eric Wessinger
1011 Warwick Drive
Macon, Georgia 31210

In re Application of
Eric Wessinger, Kevin Korte and Robin Schlinger
Application No.10/217,509
Filed: August 13, 2002
Attorney Docket No. BW-414-1
Title of Invention: METHOD FOR PROCESSING RECONSTITUTED TOBACCO

LETTER

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OFFICE OF PETITIONS

Dear Dr. Wessinger:

You Eric Wessinger 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 (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
Supervisory Petitions Examiner
Office of Petitions

JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

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MAR 18 2005

OFFICE OF PETITIONS

Applicant: Mack et al.
Appl. No.: 10/217,524
Filing Date: August 13, 2002
Title: METHOD OF TREATING ALLERGEN INDUCED AIRWAY DISEASE
Attorney Docket No.: 13235-012001 /42-41 US
Pub. No.: US 2004/0033209 A1
Pub. Date: February 19, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on April 14, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of

FREDELL, Dale Lind et al.
Application No. 10/217,583
Filed: August 12, 2002
Attorney Docket No. **163.1338USC2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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. Sarah M. Monfeldt has been withdrawn, all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

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MAR 3 1 2008

ELMER GALBI
13314 VERMEER DRIVE
LAKE OSWEGO, OR 97035

In re Application of	:	
WYSCHOGROD, Daniel et al.	:	
Application No. 10/217,592	:	DECISION ON PETITION
Filed: August 08, 2002	:	TO WITHDRAW
Attorney Docket No. **EWG-160 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 March 23, 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 Elmer Galbi, the sole attorney of record. Elmer Galbi has been withdrawn as attorney or agent of record. 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.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DANIEL WYSCHOGROD**
28 JUDITH ROAD
NEWTON, MA 02459

cc: **VENABLE LLP**
ATTN: JEFFRI KAMINSKI
P.O. BOX 34385
WASHINTON, DC 20043-9998

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AUG 25 2004

NOVO NORDISK PHARMACEUTICALS, INC.
100 COLLEGE ROAD WEST
PRINCETON, NEW JERSEY 08540

In re Application of	:
Lone Jeppesen et al.	:
Serial No.: 10/217,595	: PETITION DECISION
Filed: July 29,2002	:
Attorney Docket No.: 6343.200-US	:

This is in response to the petition under 37 CFR 1.181, filed July 1, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Final Office action to applicants on October 23, 2003, setting a three month shortened statutory period for reply. The Final Office action was mailed to Novo Nordisk of North America, Inc. , Suite 6400, 405 Lexington Avenue New York, NY 10174-6401. The address is the same address that the previous Office action was mailed to on June 3, 2003. It is noted that the response to the Office action, filed September 3, 2003, included on the last page a return address of Novo Nordisk Pharmaceuticals, Inc., 100 College Road West Princeton, New Jersey. However, no formal request to change the correspondence address was filed with the response. No formal change of address was filed until April 23, 2004.

Upon failure to receive a reply to the Final Office action a Notice of Abandonment was mailed to applicants on June 18, 2004. Applicants state that the Final Office action was never received. Applicants have provided no evidence of non-receipt as required by M.P.E.P. 711.03(c). Applicants have also provided no evidence of an earlier submitted change of correspondence address request. Thus the Office action was properly mailed to the correspondence address of record.

The petition is **DISMISSED**. Applicants may file a renewed petition supplying the required evidence for withdrawal of the abandonment or may file a petition under 37 CFR 1.137(a) or (b) for revival of the application. Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

The application remains abandoned. No fee is due for this petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 14-1447, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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NOV 17 2004

NOVO NORDISK PHARMACEUTICALS, INC.
100 COLLEGE ROAD WEST
PRINCETON, NEW JERSEY 08540

In re Application of	:
Lone Jeppesen et al.	:
Serial No.: 10/217,595	: PETITION DECISION
Filed: July 29,2002	:
Attorney Docket No.: 6343.200-US	:

This is in response to the renewed petition under 37 CFR 1.181, filed October 4, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Final Office action to applicants on October 23, 2003, setting a three month shortened statutory period for reply. The Final Office action was mailed to Novo Nordisk of North America, Inc. , Suite 6400, 405 Lexington Avenue New York, NY 10174-6401. In view of the evidence now submitted it is clear that this was an incorrect correspondence address. It is noted that the response to the Office action, filed September 3, 2003, included on the last page a correct correspondence address for Novo Nordisk Pharmaceuticals, Inc., 100 College Road West Princeton, New Jersey. Applicants provide evidence of submission of a proper change of correspondence address, but it unclear why Office records were not changed at that time. In view of the evidence presented the Notice of abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action 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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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OCT 16 2006

TECHNOLOGY CENTER 2800

October 2006

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of SANDHU et al Application No. 10/217,618 Filed: August 13, 2002 Title: METHODS FOR FORMING A METALLIZATION LAYER	: : : : :	DECISION ON PETITION

This is a decision on the communication filed July 14, 2004, requesting that Notice of Abandonment be withdrawn. The communication has been treated as a petition requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

This application was held abandoned for failure to timely reply to the Election/Restriction Requirement Office action mailed October 31, 2003, setting a one-month period of response. A Notice of Abandonment was mailed on July 1, 2004.

Petitioner asserts that a response to the Election/Restriction Requirement Office action along with a certificate of mailing, a Supplemental Information Disclosure Statement, and a Communication was mailed to the US Patent and Trademark Office (USPTO) on December 1, 2003. This is evidenced by the post card receipt indicating receipt of a response to the Office action on December 4, 2003.

The review of the application file reveals that the response to the October 31, 2003 Office action was received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the October 31, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.4

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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JAN 07 2003

OFFICE OF PETITIONS

In re Application of :
Brian Huber :
Application No. 10/217,619 : ON PETITION
Filed: August 13, 2002 :
Attorney Docket No.: 303.659US3 :

This is a decision on the petition filed November 13, 2002 (certificate of mailing November 5, 2002), requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed September 9, 2002 be withdrawn.

The application was filed on August 13, 2002. However, on September 5, 2002, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of August 13, 2002 but figure 2 as described in the specification appeared to have been omitted.

In response, figure 2 as described in the specification and the present petition were filed on November 13, 2002. The petition states the specification submitted on August 13, 2002 indicated the present application as a continuation application incorporated by reference the entire disclosure of a prior application.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing pages were actually deposited in the PTO on January 14, 2002, with the other application papers nor request a later filing date.

Instead, applicants seek to add the pages of the specification to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the

primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).
MPEP 201.06 (c) states that:

... an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

In view of the incorporation by reference of the prior application, figure 2 as described in the specification supplied on November 13, 2002, would not constitute new matter if it was part of the original disclosure of the prior application (09/493,452).

If applicants desire that figure 2 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

Obviously, in view of the incorporation by reference of the prior application, figure 2 as described in the specification is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination Division for further processing with a filing date of August 13, 2002 using the application papers received in the Office on that date.

Thereafter, the application will be forwarded to appropriate group art unit for consideration by the examiner of the petition filed November 13, 2002, as an amendment requesting the entry of figure 2 as described in the specification.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Mood

Beverly M. Flanagan
Supervisory 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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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Homme et al.	: DECISION ON PETITIONS
Application No. 10/217,628	: UNDER 37 CFR 1.78(a)(3)
Filed: August 14, 2002	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. 046124-5098-01	:

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and declaration, respectively.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **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 above-identified pending nonprovisional application was filed after November 29, 2000, and intermediate PCT Application No. PCT/JP99/03264 (filed June 18, 1999) was filed within 12 months of June 18, 1998, the filing date of prior-filed Japanese foreign Application No. P-1998-171191. The declaration filed on June 22, 2005, also identifies the foreign application for which priority is claimed by application number, country and filing date. Lastly, petitioner has provided an adequate statement of unintentional delay.[1]

[1] 37 CFR 1.55(c)(3) requires 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. Because the statement contained in the instant petition varies from the language required by 37 CFR 1.55(c)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.55(c)(3).

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, and the foreign priority claim, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 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 the instant application is entitled to the benefit of the earlier filing date.

A review of the Office finance records indicates that the USPTO overcharged applicant's Deposit Account in the amount of $130.00. Accordingly, the $130.00 fee will be refunded to applicant's Deposit Account.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. 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 2884 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment and declaration, respectively.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

MAIL

NOV 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John T. Kennedy
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 Seventeenth Street
Suite 4700
Denver, CO 80202-5647

In re Application of:	)	
Ullman et al.	)	
Application No. 10/217,637	)	**DECISION ON REQUEST FOR**
Filed: August 12, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: ENHANCED VIDEO PROGRAMMING SYSTEM AND METHOD FOR PROVIDING A DISTRIBUTED COMMUNITY NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed October 10, 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 October 10, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Scott W. Doyle
MORRISON & FOERSTER LLP
1650 Tysons Boulevard, Suite 300
McLean, VA 22102

UNITED STATES 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.

Adam Keser
MORRISON & FOERSTER LLP
1650 Tysons Blvd. Suite 300
McLean, VA 22102

MAILED

NOV 14 2006

Technology Center 2100

In re Application of:
Craig D. Ullman
Application No. 10/217,637
Filed: August 12, 2002
For: ENHANCED VIDEO PROGRAMMING SYSTEM AND METHOD FOR PROVIDING A DISTRIBUTED COMMUNITY NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 29, 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 September 29, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Marc Kaufman, Esq.
NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, DC 20004

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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OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

COPY MAILED

MAY 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Craig D. Ullman, et al.	:	
Application No. 10/217,637	:	DECISION ON PETITION
Filed: August 12, 2002	:	TO WITHDRAW
Attorney Docket No. 4247.47	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 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 Adam Keser on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed October 30, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CRAIG D. ULLMAN
112 WILLOW STREET
#4A
BROOKLYN, NY 11201

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITH 900
WASHINGTON, DC 20004

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
10/217,637	08/12/2002	Craig D. Ullman	4247.47

CONFIRMATION NO. 2480

OC000000023907482

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
1300 I STREET, NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Naoto Miyashita et al
Application No. 10/217,646
Filed: August 14, 2002
Attorney Docket No. 4329.2388-01

This is a decision on the petition, filed October 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT, WILL & EMERY
SUITE 3400
2049 CENTURY PARK EAST
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of
Michael P. O'Brien, et al.
Application No. 10/217,660
Filed: August 13, 2002
Attorney Docket No. 065086-0011

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 27, 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 Marc E. Brown on behalf of all attorneys of record who are associated with customer No. 33401.

All attorneys/agents associated with the Customer Number 33401 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed July 5, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1542.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL P. O'BRIEN
26637 GUADIANA
MISSION VIEJO, CA 92691

cc: ELECTRONIC FINANCIAL SERVICES, INC.
PO BOX 5048
IRVINE, CA 92619-5048

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
10/217,660	08/13/2002	Michael P. O'Brien	065086-0011

CONFIRMATION NO. 7152

POWER OF ATTORNEY NOTICE

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles, CA 90067

OC000000028217053

Date Mailed: 02/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2007.

- 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 Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Brand	:	
Application No. 10/217,667	:	DECISION GRANTING PETITION
Filed: August 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108298530US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Petitions Examiner

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 3 2004

VP
PAPER NO. ___

In re Application of
Jiten Chatterji et al.
Serial Number: 10/217,669
Filed: August 13, 2002
For: FOAMED WELL CEMENT SLURRIES, ADDITIVES AND METHODS

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed August 13, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Small Entity)	Docket No. 12799ZY

In Re Application Of: **Wen-Tung Yang, et al.**

OIPE JC108 NOV 15 2002 PATENT & TRADEMARK OFFICE

Serial No.	Filing Date	Examiner	Group Art Unit
10/217,694	August 13, 2002	UNASSIGNED	1634

Invention: **APPARATUS AND PROCESS FOR RAPID HYBRIDIZATION**

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 **September 9, 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.
- ☐ _____ verified small entity declaration(s)
  - ☐ is/are attached.
  - ☐ was/were filed on _____
- ☐ A separate request for refund.
- ☒ Other (list):

Response to Notice To File Missing Parts (in duplicate)
Our Check in the amount of $65.00
Certificate of Mailing dated November 12, 2002

P31SMALL/REV03

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Small Entity)	Docket No. 12799ZY

In Re Application Of: **Wen-Tung Yang, et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/217,694	**August 13, 2002**	**UNASSIGNED**	**1634**

Invention: **APPARATUS AND PROCESS FOR RAPID HYBRIDIZATION**

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	**$65.00**
☐ 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	**$65.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees	
Total fees due	**$65.00**

P31SMALL/REV02

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Small Entity)	Docket No. 12799ZY

In Re Application Of: **Wen-Tung Yang, et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
10/217,694	**August 13, 2002**	**UNASSIGNED**	**1634**

Invention: **APPARATUS AND PROCESS FOR RAPID HYBRIDIZATION**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of **$65.00** 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. **19-1013/SSMP**
  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. **19-1013/SSMP**
  A duplicate copy of this sheet is enclosed.

Signature

Dated: **November 12, 2002**

Edward W. Grolz
Registration No.: 33,705
SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, NY 11530
(516) 742-4343

I certify that this document and fee is being deposited on **November 12, 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

Mishelle Mustafa

Typed or Printed Name of Person Mailing Correspondence

cc:

PN

NOV 15 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/217,694	08/13/2002	Wen-Tung Yang	12799ZY

CONFIRMATION NO. 2531

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, NY 11530

FORMALITIES LETTER

OC000000008751490

Date Mailed: 09/09/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

11/18/2002 JBALINAN 00000077 10217694
01 FC:2051 65.00 OP

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC108
NOV 15 2002
PATENT & TRADEMARK OFFICE

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Wen-Tung Yang, et al.	**Examiner:**	Unassigned
Serial No.:	10/217,694	**Art Unit:**	1634
Filed:	August 13, 2002	**Docket:**	12799ZY
For:	APPARATUS AND PROCESS FOR RAPID HYBRIDIZATION	**Dated:**	November 12, 2002

Assistant Commissioner for Patents
Washington, DC 20231

SUBMISSION OF DECLARATION AND POWER OF ATTORNEY

Sir:

Enclosed is a Declaration and Power of Attorney for the above application previously filed without a declaration. The requisite $65.00 surcharge for this filing is enclosed herewith.

Any additional charges required in connection with this submission may be charged to Deposit Account No. 19-1013/SSMP. A duplicate of this sheet is enclosed.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §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: Assistant Commissioner for Patents, Washington, DC 20231 on November 12, 2002.

Dated: November 12, 2002

Mishelle Mustafa

H:\work\574\12799zy\misc\12799zy.dec.doc

This submission is believed to be timely and in compliance with 37 C.F.R. §§1.51, 1.63. A copy of the Notice To File Missing Parts dated September 9, 2002, is enclosed as required.

Respectfully submitted,

Edward W. Grolz
Registration No. 33,705

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

EWG/nd

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.: 07-05

Paper No: __

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

COPY MAILED

JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of
Hampton :
Application No. 10/217,706 :
Filing Date:10 August, 2002
Attorney Docket No. 57327.8001.US00 :

This is a decision on the petition filed on 15 April, 2005, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 January, 2004, with reply due absent extension of time on or before 27 April, 2004;
- the instant application went abandoned after midnight 27 April, 2004;
- the Office mailed the Notice of Abandonment on 19 August, 2004;
- with the instant petition and fee, Petitioner filed an amendment as the required reply and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

---

[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.

Petitioner has satisfied the requirements of the regulation.

The record (including the petition filed on 15 April, 2005) does not necessitate a finding that the delay between midnight 27 April, 2004 (date of abandonment), and 15 April, 2005 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner's Counsel Joseph P. Hamilton (Reg. No. 51,770) when accepting Petitioner's representation that the delay in filing the response was unintentional.[7]

CONCLUSION

The petition under 37 C.F.R. §1.137(b) 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

[7] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION
LEGAL DEPARTMENT, M/S DL-429
815 SW 14TH STREET
LOVELAND, CO 80537

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Gary B. Gordon, et al.	: DECISION ON PETITION
Application No. 10/217,725	: UNDER 37 CFR 1.78(a)(3)
Filed: August 12, 2002	:
Attorney Docket No. 10980359-7	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 2005 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 08/540,355 filed October 6, 1995.

The petition is **DISMISSED**.

A review of the record discloses that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was not made within the time period set forth in 37 CFR 1.78(a)(2)(ii) nor was there a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii). While the present petition is accompanied by an amendment that includes a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(iii), the amendment is filed after the payment of the issue fee.

Since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with the submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after payment of the issue fee. *See* MPEP 1481, Rev. 2, May 2004, page 1400-85, second column.

Alternatively, if petitioner desires to have the priority claim appear on the first page of the patent, petitioner is encouraged to promptly file a petition to withdraw the above-identified application from issue under 37 CFR 1.313(c)(2), along with a Request for Continued Examination (RCE) under 37 CFR 1.114 and a renewed the petition under 37 CFR 1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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 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
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Alexandria, VA 22313-1450
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RAMAN N. DEWAN
JACKSON WALKER, L.L.P.
100 CONGRESS AVENUE
SUITE 1100
AUSTIN TX 78701

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of Jackie A. Halpern et al Application No. 10/217,743 Filed: August 13, 2002 Attorney Docket No. 130332.00062	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 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 RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of August 24, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2614 for the mailing of the Nonfinal Rejection of November 26, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald P. Labriola II	:	
Application No. 10/217,744	:	DECISION ON PETITION
Filed: August 13, 2002	:	UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 81915.0009	:	
Title: INTEGRATED RESOLVER FOR	:	
HIGH POLE COUNT MOTORS	:	

This is a decision on the petition filed on June 26, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

> was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on April 27, 2006. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

On June 26, 2006, a Notice of Rescission of Nonpublication Request was filed with the present petition.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 8, 2007 accompanies this decision on petition.

Technology Center 2800 will be notified of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone

inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/217,744	08/13/2002	Donald P. Labriola II	81915.0009

CONFIRMATION NO. 1739

26021
HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

Date Mailed: 11/30/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/08/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
5 Palo Alto Square - 6th Floor
3000 El Camino Real
PALO ALTO CA 94306-2155

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Andrew P. Cottrell	:	
Application No. 10/217,751	:	DECISION ON PETITION
Filed: August 13, 2002	:	
Attorney Docket No. 01-1013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July31, 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, August 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 26, 2005. The Notice of Abandonment was mailed March 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on July 31, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2192 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson

Terri Johnson
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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EVELYN H. MCCONATHY
DILWORTH PAXSON LLP
3200 MELLON BANK CENTER
1735 MARKET STREET
PHILADELPHIA, PA 19103

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NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Mortimer M. Civan et al :
Application No. 10/217,755 :
Filed: August 13, 2002 :
Attorney Docket No. 22253-72091

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHAPIN & HUANG
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 120
WESTBOROUGH MA 01581

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SEP 1 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
William G. Thorburn et al	:	
Application No. 10/217,756	:	
Filed: August 13, 2002	:	
Attorney Docket No. MCE04-15	:	

This is a decision on the petition, filed September 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 May 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2878 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 060104

JUN - 4 2004

TROXELL LAW OFFICE PLLC
5205 Leesburg Pike, Suite 1404
Fall Church, VA 22041

In re Application of:
Chin-Feng Lo
Serial No.: 10/217,757
Filed: August 12, 2002
Attorney Docket No.: **BHT-3098-143**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

BEST AVAILABLE COPY

This is a decision on the petition filed December 31, 2003, 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 file a response to the Office action mailed on April 10, 2003. A Notice of Abandonment was mailed on December 19, 2003.

Petitioner asserts that the Office action mailed on April 18, 2003, was not received. According to USPTO records, the actual mail date of the Office action was April 10, 2003. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition. It is further asserted that a Revocation of Power of Attorney and Appointment of New Attorney which included a change of correspondence address was filed on April 14, 2003, prior to the mailing of the Office action. USPTO records show the original Revocation and Power of Attorney has a date stamp of receipt by the USPTO of April 10, 2003.

A review of the written record indicates that the request to change the correspondence address included with the Revocation and Power of Attorney was received in the USPTO prior to the mailing of the Office action on April 10, 2003, but not processed until after the Office action was mailed to the old address. As a result, the Office action mailed on April 10, 2003, was sent to an incorrect address.

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 Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of	:
Daniel E. Grupp et al	:DECISION GRANTING PETITION
Application No. 10/217,758	:UNDER 37 CFR 1.137(b)
Filed: August 12, 2002	:
Attorney Docket No. 3771P003	:

This is a decision on the petition, filed October 17, 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 under 37 CFR 1.137(f) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 8, 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 USPTO 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 February 12, 2004 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on October 7, 2003. 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 rescinding of the nonpublication request, the $300 publication fee will be charged to petitioner's deposit account. If publication of the application does not occur, applicant may file a request for refund after the patent issues. *See* 37 CFR 1.211(e). Questions relating to a refund of the publication fee should be directed to the patent publication hotline at (703) 605-4283 or by e-mail to pgpub@uspto.gov.

This application is being forwarded to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed October 7, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

FEB 06 2004

OFFICE OF PETITIONS

In re Application of
Daniel E. Grupp
Application No. 10/217,758
Filed: August 12, 2002
Attorney Docket No. 3771P003

ON PETITION

This is a decision on the petition, filed January 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 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2814 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).

UNITED STATES 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 -7 2004

In re Application of	:	
Karen E. Brannon	:	
Serial No. 10/217,765	:	DECISION ON PETITION
Filed: August 12, 2002	:	TO WITHDRAW AS ATTORNEY
For: FOOTWEAR INSERT TO	:	
PREVENT FOOT SLIDING	:	

By papers filed on October 22, 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:

Dr. Karen Brannon
5729 Canterbury Drive
Culver City, CA 90230

E. Rollins-Cross, Director
Technology Center 3700

Juneko Jackson
Intellectual Property Law Group, LLP
Old Bank of America Building
12 South First Street, 12th Floor
San Jose, CA 95113

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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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OFFICE OF PETITIONS

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MAR 30 2007

OFFICE OF PETITIONS

DR. BRANNON
5729 CANTERBURY DRIVE
CULVER CITY, CA 90230

In re Application of :
Karen E. Brannon :
Application No. 10/217,765 :
Filed: August 12, 2002 :
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 5, 2007

The petition is **DISMISSED**.

A review of the application file reveals a Notice of Non-Complaint Amendment (copy enclosed) was mailed on October 18, 2004, allowing a shortened period for reply of (1) month from its mailing date. Extension of the time set for reply were available pursuant to 37 CFR 1.136(a). The record reflects that a reply intending to be responsive to the Notice of Non-Compliant Amendment was filed April 8, 2005, with a request for an extension of time within the first month. In order for this April 8, 2005, reply to be considered timely a request for an extension of time within the fourth month would have been necessary. The April 8, 2005, reply was untimely and not entered, accordingly.

Based on the aforementioned, the holding of abandonment is proper because a proper and timely response to the Notice of Non-Compliant Amendment was not received within the allowable period. The petition is dismissed, accordingly.

Petitioner may file a petition under 37 CFR 1.137(b) (enclosed) to revive the application. The fee for the petition is $1500.00 large entity or $750.00 for a small entity.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: Notice of Non-Compliant Amendment (COPY)
Petition Under 37 CFR 1.137(b)

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/217,765	08/12/2002	Karen E. Brannon	MCDOWELL.PT1	2642

24943 7590 10/18/2004

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

EXAMINER
STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
3728	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 9-13-4 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other_____

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other_____

☐ 3. Amendments to the drawings: _____

☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: Amended claims does not show what was deleted.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT,** applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and **this ONE MONTH time limit is not extendable.**

If the non-compliant amendment is a reply to a NON-FINAL OFFICE ACTION (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION,** this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

Lisa Fulton
Legal Instruments Examiner (LIE)

(703) 308-2193
Telephone No.

Rev. 6/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

Karen E. Brannon
309 Atessa Court
Roseville CA 95747

COPY MAILED
AUG 1 8 2008
OFFICE OF PETITIONS

In re Application of :
Karen E. Brannon :
Application No. 10/217,765 : ON PETITION
Filed: August 12, 2002 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2008, to revive the subject application.

The petition is **GRANTED**.

A review of the application file reveals a Notice of Non-Complaint Amendment (copy enclosed) was mailed on October 18, 2004, allowing a shortened period for reply of (1) month from its mailing date. Extension of the time set for reply were available pursuant to 37 CFR 1.136(a). The record reflects that a reply intending to be responsive to the Notice of Non-Compliant Amendment was filed April 8, 2005, with a request for an extension of time within the first month. In order for this April 8, 2005, reply to be considered timely a request for an extension of time within the fourth month would have been necessary. The April 8, 2005, reply was untimely and not entered, accordingly. The application became abandoned on December 19, 2004.

The amendment filed June 2, 2008, is noted.

The Change of Correspondence Address, filed June 2, 2008, is also noted.

The application file is being directed to Technology Center, GAU 3728 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
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Gubernick, et al.	:	
Application No. 10/217,794	:	DECISION ON PETITION
Filed: August 13, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. CHI-870	:	

This is a decision on the petition under 37 CFR 1.55(c), filed May 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Application No. DE10006961.4, filed February 16, 2000.

The petition is **DISMISSED**.

Any reconsideration petition should be submitted within two (2) months of the mail date of this decision.

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) a nonprovisional application in the benefit chain must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record discloses that unclear foreign priority information was included in the declaration filed with the present petition. 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. The foreign application number is listed as **10 06 961.4 – 45** DE in the declaration. It is listed as DE**10006961.4** in the amendment to the specification. Petitioners are requested to resolve this discrepancy.

In addition, it is noted that petitioners are attempting to incorporate by reference Application Nos. 60/312,330, 09/783,844, and DE10006961.4 in the amendment to the specification. The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference 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).

Petitioners must eliminate the incorporation by reference portion of the amendment to the specification.

37 CFR § 1.55(c) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)" and should address the above-noted matters.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 15 2008

In re Application of Gubernick, et al. Application No. 10/217,794 Filed: August 13, 2002 Attorney Docket No. CHI-870	DECISION ON PETITION UNDER 37 CFR 1.55(c)

This is a decision on the reconsideration petition under 37 CFR 1.55(c), filed May 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Application No. DE10006961.45, filed February 16, 2000.

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) a nonprovisional application in the benefit chain must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record discloses that unclear foreign priority information was included in the declaration filed with the present petition. 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. The foreign application number is listed as **10 06 961.4 – 45** DE in the May 2, 2008 declaration. It is listed as DE**10006961.45** in the amendment to the specification, filed May 2, 2008. The digits are not the same. Petitioners are requested to file an appropriate amendment to the specification that lists the foreign application number listed in the declaration. It appears that the correct foreign application number is DE1006961.4-45.

Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)" and should address the above-noted matter.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

APR 22 2009

OFFICE OF PETITIONS

In re Application of
Gubernick, et al.
Application No. 10/217,794
Filed: August 13, 2002
Attorney Docket No. CHI-870

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the reconsideration petition under 37 CFR 1.55(c), filed March 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Application No. DE100 06 961.4-45, filed February 16, 2000.

The petition is **GRANTED**.

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) a nonprovisional application in the benefit chain must be filed within 12 months of the filing date of the foreign application.

This application was filed on August 13, 2002, which is after November 29, 2000 and Application No. 09/783,844, an application in the benefit chain, was filed on February 15, 2001, which was within 12 months of February 16, 2000 (the filing date of the foreign application to which benefit is now being claimed). On March 30, 2009, 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 $1,410.00 was received with the petition. 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.

This application is being referred to Technology Center AU 3761 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/217,794	08/13/2002	3761	870	CHI-870	19	2

CONFIRMATION NO. 2365

CORRECTED FILING RECEIPT

OC000000035583726

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 04/21/2009

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)

David Gubernick, Cherry Hill, NJ;
William G.F. Kelly, Middlesex, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 000027777

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/312,330 08/14/2001
and is a CIP of 09/783,844 02/15/2001 ABN

Foreign Applications

GERMANY DE100 06 961.4-45 02/16/2000

If Required, Foreign Filing License Granted: 09/09/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/217,794**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTIPLE ZONE APERTURED WEB

Preliminary Class

604

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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38TH FLOOR
LOS ANGELES CA 90067-3208

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of	:	
O'BRIEN, Michael P. et al.	:	
Application No. 10/217,838	:	DECISION ON PETITION
Filed: August 13, 2002	:	TO WITHDRAW
Attorney Docket No. **065086-0013**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 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 there remains 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 June 22, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ELECTRONIC FINANCIAL SERVICES, INC.**
P.O. BOX 55048
IRVINE, CA 92619-5048

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUN 0 8 2004

Office of the Director
Group 3600

PAULA D. MORRIS & ASSOCIATES, P.C.
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042

In re application of:
David Richard Pesiri et al.
Application No. 10/217,852
Filed: August 13, 2002
For: PROCESS FOR MIXING PARTICULATES

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 11, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in deciding this petition is sincerely regretted.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with item A) above. As to item

A) the attorney signing the request does not have power of attorney in this application. There is no record on the declaration, or a separate paper, explicitly conferring power of attorney to the attorney signing the request. The declaration merely contains a correspondence address which includes petitioner's name.

Since neither Paula D. Morris nor any attorney associated with customer number 23770 has been given power of attorney in this application, Ms. Morris has no authority to change the correspondence address as requested. Furthermore, there is no record in the application file that Andrew Macdonald of Technanogy, L.L.C. is the assignee of the instant application and therefore has no standing. If the correspondence address were to be changed, the authorization would have to come from a request signed by both inventors, David Richard Pesiri and Robert C. Dye. In situations where joint inventors prosecute their own application, the mailing address of one of the inventors is usually selected as the correspondence address. As a courtesy, a copy of this decision is being mailed to the mailing address of the first named inventor. However, the official correspondence address remains as set forth in the original declaration until such time as applicants instruct otherwise.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 6/7/04

cc: David Richard Pesiri
492 Park Avenue
Laguna Beach, CA 92651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
www.uspto.gov

Paper No. 6

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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FEB 21 2003

OFFICE OF PETITIONS

In re Application of: James Birdle, Jr., Jeffrey Edwards, Yonathan Epelbaum, Frederick J. Fiddle, Emerson P. Jones, Stuart C. Kaperst, Todd K. Kaplan, Daniel Y. Kerstein, Richard P. Luciano, Thomas H. Patrick, Jr., Paul A. Pepe, Eric Steifman, Russell L. Stein, Brennan J. Warble and Richard J. Green Application No. 10/217,875 Filed: August 12, 2002 Title of Invention: METHODS AND SYSTEMS FOR OFFERING AND SERVICING FINANCIAL INSTRUMENTS	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed January 30, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Emerson P. Jones, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Emerson P. Jones
72 Rockwood Lane
Greenwhich CT 06830

In re Application of:
James Birdle, Jr., Jeffrey Edwards,
Yonathan Epelbaum, Frederick J.
Fiddle, Emerson P. Jones, Stuart C.
Kaperst, Todd K. Kaplan, Daniel Y.
Kerstein, Richard P. Luciano,
Thomas H. Patrick, Jr., Paul A.
Pepe, Eric Steifman, Russell L.
Stein, Brennan J. Warble and
Richard J. Green
Application No. 10/217,875
Filed: August 12, 2002
Title of Invention: METHODS AND
SYSTEMS FOR OFFERING AND SERVICING
FINANCIAL INSTRUMENTS

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FEB 21 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Jones:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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NORMAN P. SOLOWAY
HAYES SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON AZ 85701

In re Application of
Brian Pirie et al. :
Application No. 10/217,898 : ON PETITION
Filed: August 13, 2002 :
Attorney Docket No: GLH 08-890156 :

This is a decision on the petition filed June 2, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative, to revive the above identified application under 37 CFR 1.137(b). [1]

The petition to withdraw the holding of abandonment is **DISMISSED**.
The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application was held abandoned on January 4, 2006, for failure to file a timely response to the Final Office Action mailed October 3, 2005. The office action set a three month shortened statutory period for reply. A Request for Continued Examination (RCE) and two month extension of time request were filed March 6, 2006 with a certificate of mail dated March 2, 2006. However, no submission under 37 CFR 1.114 was filed with the RCE and thus a Notice of Improper Request for Continued Examination was mailed April 28, 2006. Accordingly, a Notice of Abandonment was mailed on May 12, 2006.

In the petition to withdraw the holding of abandonment under 37 CFR 1.181, petitioner

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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)).

asserts that the RCE was filed March 6, 2006 with a request for a three month suspension of examination specificall for the purpose of later filing an amendment.

While petitioner's arguments have been considered they are not persuasive, a submission under 37 CFR 1.114 must accompany an RCE for action to be taken on the request. Therein, the Notice of Improper Request for Continued Examination was proper. The failure to file a submission under 37 CFR 1.114 with the RCE caused the application to become abandoned and therefore the holding of abandonment cannot be withdrawn.

With respect to the petition to revive, the petition fee in the amount of $750.00 has been applied. All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 2176 for processing of the RCE and submission filed June 2, 2006.

Finally, a mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). Since the file does not indicate a change of address has been submitted, a change or correction of address to include the suite number should be filed in accordance with MPEP 601.03. As a courtesy, this decision is being mailed to the address given on the petition, however, the Office will mail all future correspondence solely to the address of record. A proper change of address must be submitted and it cannot be included with any response or other communication with the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

NORMAN P. SOLOWAY
HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Brian Pirie	: DECISION ON REQUEST FOR
Patent Number	: 7640500	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/217,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **690** 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
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Spencer, Fane, Britt & Browne
1000 Walnut Street, Suite 1400
Kansas City, MO 64106-2140

Paper No. 4

In re application of
Robert D. Sager
Application No. 10/217,903
Filed: August 13, 2002
For: PAYMENT CONVERGENCE SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 16, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 16, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on September 16, 2003.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/mjz: 2/5/04

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225 FRANKLIN STREET
BOSTON, MA 02110

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of
Jasmin Cosic
Application No. 10/217,937
Filed: August 12, 2002
Attorney Docket No. 13409-002001

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 February 3, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

The request was signed by Paul Pysher, on behalf of all attorneys of record and all those who are associated with Customer Number 26161.

All attorneys/agents of record and those associated with the Customer Number 26161 have been withdrawn. Therefore, applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor, Jasmin Cosic, at the address indicated below.

There is an Office action mailed April 7, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: JASMIN COSIC
39 BENEFIT STREET
PAWTUCKET, RI 02861

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Ryan Wayne Ross
1611 Kimberton
Phoenixville PA 19460

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AUG 23 2005

Technology Center 2100

In re Application of: ROSS
Application No. 10/217,980
Filed: August 13, 2002
For: METHOD AND APPARATUS FOR A FOUR DIMENSIONAL COMPUTER OPERATING SYSTEM ENVIRONMENT AND DISPLAY OF SUCH ENVIRONMENT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed June 28, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed June 28, 2005 fails to adequately meet requirements (b), (c) and (e) of the criteria set forth above. With respect to requirement (b), Petitioner must present 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. Practitioner fails to make statement that "all claims directed to a single invention...as prerequisite grant of special status." With respect to requirement (c), Petitioner must submit a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. Petitioner fails to provide listing of publication(s) and/or U.S. Patents such as Application Number 08/522,953 should be U.S. Patent 5,678,015 to GOH issued on 10/14/1997, etc. Petitioner must provide a statement that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. With respect to requirement (e), applicant must provide a detailed discussion of reference documents (for example, Application Number 08/826,618) since applicant has deemed it as one of the most closely related references. As to Application Number, 08/826,618, the Petitioner has merely provided a terse discussion as to how the objects therein are limited to three dimensions. However, the submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the reference (with reference to Page Numbers or figures, for example) and it does not point out how the language of **each of the independent claims** are specifically distinguishable and patentable over the references. For example, and contrary to Petitioner's remarks, the recitation "The method for the existence of two and three-dimensional objects within a four-dimensional space continuum" does not appear in the independent claims of the instant application. Petitioner should review all references cited in the Petition and ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the reference shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

In addition, applicant should consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of the references cited in the petition by the assigned examiner.

For the above stated reasons, 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.

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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

RP

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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FEB 24 2005

Douglas P. LaLone, Esq.
Warn, Burgess & Hoffmann, P.C.
P.O. Box 70098
Rochester Hills MI 48307

In re Application of	:	
Vernon A. Trigger	:	
Serial No.: 10/217,990	:	PETITION TO MAKE SPECIAL
Filed: August 13, 2002	:	
Attorney Docket No. MOR.00001	:	

This is in response to applicant's petition filed on November 4, 2003, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition. The delay in acting upon this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

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JUL 2 0 2005

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET, NW
WASHINGTON DC 20037

In re Application of	:	
Kevin D. Kroupa et al	:	
Application No. 10/218,039	:	ON PETITION
Filed: August 14, 2002	:	
Attorney Docket No. A3648.0012/P419-A	:	

This is a decision on the petition, filed July 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 June 16, 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 3753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of Toru Takayama et al Application No. 10/218,042 Filed: August 14, 2002 Attorney Docket No. 12732-114001/US5919	: DECISION GRANTING PETITION : UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 22, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1734 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\july10\218042.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.*

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P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 6,831,031	:	
Issue Date: December 14, 2004	:	
Application No. 10/218,057	:	DECISION ON PETITION
Filed: August 12, 2002	:	
Atty Dkt No. 14157-005001/PIP2002205US	:	

This is a decision on the petition under 37 CFR 1.182, filed May 19, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

A petition under 37 CFR 1.182 requires a fee of $400. The petition was accompanied by a fee of $130 for the petition under 37 CFR 1.182. As authorized, the balance due of $270 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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AUG 3 0 2007

OFFICE OF PETITIONS

In re Application of
VAN DE WAERDT, et al.
Application No. 10/218,074
Filed: August 12, 2002
Attorney Docket No. US 020293

DECISION
ON PETITION

This is a decision on the petition, filed August 6, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned November 25, 2004 for failure to timely reply to the final Office Action mailed August 25, 2004, which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 26, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of Augsut 25, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on August 25, 2004 with any renewed petition.

Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.

A courtesy copy of an Advisory Action is included.

Finally, it is noted that the person signing the statement of unintentional delay is not one of the persons who has been appointed as an attorney of record herein. It is therefore not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petition must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney-Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 25 2007

OFFICE OF PETITIONS

In re Application of
VAN DE WAERDT, et al.
Application No. 10/218,074
Filed: August 12, 2002
Attorney Docket No. US 020293

DECISION ON
RENEWED PETITION

This is decision is issued in response to the "Petition Under 37 CFR 1.137(b)" filed October 02, 2007, treated herein as a renewed petition.

The renewed petition is **GRANTED**.

In a decision mailed herein on August 30, 2007, applicants' original petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide the "required reply" in the form of "an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application."

The renewed petition filed October 02, 2007 is accompanied by the "required reply" in the form of an RCE accompanied by the necessary fee and submission (i.e., an "Amendment And Response To Final Office Action"). Applicants have therefore now satisfied the remaining requirement for a grantable petition for revival under 37 CFR 1.137(b). Accordingly, the reply to the final Office action of August 25, 2004 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2188.

Telephone inquiries concerning this decision should be directed to the undersigned.

Richard M. Ross
Attorney Advisor
Telephone: (571) 272-3296

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Docket Clerk
P. O. Drawer 800889
Dallas, TX 75380

Mail Date: 06/18/2010

Applicant	: Ghazi Al-Rawi	: DECISION ON REQUEST FOR
Patent Number	: 7633849	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/218,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1383** 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.

NOV 13 2003 PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/218,103
Filing Date	August 12, 2002
First Named Inventor	Sahid Sesay
Art Unit	1724
Examiner Name	Hruskoci, Peter A.
Attorney Docket Number	1617910-0003 or 274/287

RECEIVED NOV 24 2003 TC 1700

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 007470

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: Baffin Solutions, Inc. ("Baffin") has shut down its business facilities at 851 W. Midway Avenue, Alameda, CA 94501. The business telephone (510-769-7887) has been disconnected and we have exhausted all known communication means to contact Baffin and have failed to obtain a response. Accordingly, we cannot continue to represent Baffin before the United States Patent and Trademark Office.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

Approved
JMStone
Jacqueline Stone, Director
Technology Center 1700
JUN 29 2004

☐ Customer Number:

OR

☑ Firm *or* Individual Name	Mr. Steven Florence				
Address	Baffin Solutions, Inc.				
Address	6 Villa Court				
City	South San Francisco	State	CA	Zip	94080
Country	U.S.A.				
Telephone	510-749-3977			Fax	510-749-6862

Name	James M. Wu		
Signature		Registration No.	45,241
Date	November 13, 2003	Telephone No.	650-213-0300

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Kazuwa Nakao	:	
Application No. 10/218,109	:	NOTICE
Filed: August 14, 2002	:	
Attorney Docket No. 58777.000009	:	

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 1651.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

MOSER, PATTERSON & SHERIDAN LLP
Suite 100
595 Shrewsbury Avenue
Shrewsbury NJ 07702

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NOV 07 2002

OFFICE OF PETITIONS

In re Application of Abraham et al. Application No. 10/218,110 Filed: August 13, 2002 Attorney Docket No. GLBL 015P1P1	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed October 10, 2002, requesting that the above-identified application be accorded a filing date of August 13, 2002, rather than the presently accorded filing date of August 12, 2002.

Petitioner alleges that the application was deposited in Express Mail service on August 13, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV118186895US. The "date-in" indicated on the Express Mail label is August 13, 2002. 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. 20-0782, as authorized in the petition.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to August 13, 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
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DIW May-05

CHRISTOPHER DEVRIES
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MAY 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Folkerts et al.	:	
Application No. 10/218,113	:	DECISION ON PETITION
Filed: 13 August, 2002	:	
Atty Docket No. GP-301292	:	

This is a decision on the petition filed on 27 April, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 November, 2004, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on 10 September, 2004, which set a two (2) month

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed an Appeal Brief as the required reply.

The petition fee will be charged to counsel's deposit account, No. 07-0960.

This application is being referred to Technology Center Art Unit 3663 for a review of the Appeal Brief filed with the present petition.

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

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OFFICE OF PETITIONS

In re Application of
Birle, et al.
Application No. 10/218,124
Filed: 12 August, 2002
Attorney Docket No. MLCO.P002-F

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] filed on 30 January, 2003.

Petitioner has shown that, while inventor the other several inventors have signed the oath/declaration, the non-signing inventors **Emerson P. Jones** (Mr. Jones) and **Daniel Y. Kerstein** (Mr. Kerstein) have refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Carl Oppedahl (Reg. No. 32,746) and Patrick Romain (First Vice President, Senior Counsel, Corporate Law/Office of General Counsel, Merrill Lynch & Co.) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

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[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3600 for further processing 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 25 2004

Office of the Director
Group 3600

Richard L. Miller
12 Parkside Drive
Dix Hills, NY 11746-4879

In re Application of
Earl Bridges
Application No. 10/218,126
Filed: August 13, 2002
For: MAIL RECEPTACLE FOR ATTACHING TO A PERIPHERY OF A MAIL SLOT OF A DOOR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed April 21, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowance and Fee(s) Due (hereinafter "Notice") was mailed to applicants on December 5, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application is now abandoned.

Applicant's petition submits a statement that the Notice mailed December 5, 2003 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of March 5, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The attorney's exhibit #1 attached to the petition shows an action information printout only for the indicated application. Exhibits #2 - #6 attached to the petition show a computer printout of applicants contacted for prosecution and/or formal matters. It is not clear how such exhibits show all cases due at around the due date of March 5, 2004. The exhibits appear to be grouped by various days when applicants were contacted, such as October 8, 2003, December 10, 2003, etc. This does not appear to provide a listing of all cases due at around March 5, 2004. Therefore, petitioner has failed to comply with requirement (3) indicated above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 6/22/04

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Paper No. 13

Richard L. Miller
12 Parkside Drive
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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Earl Bridges :
Application No. 10/218,126 :
Filed: August 13, 2002 :
Attorney Docket No. BRIE46A :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item 1. 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. Accordingly, the application cannot be revived until a proper response to the Notice of Allowance/Allowability mailed December 5, 2003 is filed.

For applicant's convenience, a copy of the Notice of Allowance and Fee(s) Due and the Notice of Allowability as mailed December 5, 2003 are enclosed. **Applicant should note that effective October 1, 2004 the issue fee was increased to $470 for a small entity and $1,370 for a large entity.** Since the issue fee is being paid after October 1, 2004, applicant must pay the new amount. Also, if petitioner desires to have the information normally found on the PTOL-85b printed on the patent, then the copy enclosed should be completed and returned with the payment of the issue fee and any renewed petition 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
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: December 5, 2003 Notice of Allowance /Allowability

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JAN 13 2005

OFFICE OF PETITIONS

In re Application of
Earl Bridges
Application No. 10/218,126
Filed: August 13, 2002
Attorney Docket No. BRIE46A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 13, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before March 5, 2004. A Notice of Abandonment was mailed on July 22, 2004. Receipt is acknowledged of the requisite issue on December 13, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy