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KALIKO & YEAGER LLC
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RAMSEY, NJ 07446

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
Michael E. Shanahan :
Application No. 10/223,200 : DECISION GRANTING PETITION
Filed: August 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MES/001CON :

This is a decision on the petition, filed March 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination).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

Petitioner is advised that the issue fee paid on February 10, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2688 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\Mar9\223200.wpd

---

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

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OFFICE OF PETITIONS

In re Application of
Murray, et al.
Application No. 10/223,205
Filed: August 16, 2002
Attorney Docket No. NVDA/P002831
For: METHOD AND APPARATUS FOR WATERMARKING BINARY COMPUTER CODE WITH MODIFIED COMPILER OPTIMIZATIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2008, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to timely reply to the final Office action, mailed September 6, 2006, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being filed, the application became abandoned on December 7, 2006. A Notice of Abandonment was mailed on February 6, 2008.

A grantable petition pursuant to 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. The Director may

require additional information where there is a question whether the delay was unintentional; and

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

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

Petitioners are reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Reza has indicated that the reply filed July 18, 2008 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

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 $1,050.00 extension of time fee submitted with the petition on July 18, 2008 was filed subsequent to the expiration of the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioners' credit card.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief for application no. 10/223,205

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/223,205	**Applicant(s)** MURRAY ET AL.	
	Examiner MOHAMMAD W. REZA	**Art Unit** 2436	

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

THE REPLY FILED 18 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: *2-4,6-8,10 and 11*.
   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 argues that the combined teaching of Akito, Pollock, and Bacon does not disclose, "a watermark is crested by replacing a current binary digit with either optimized code segments or non-optimized code segments based solely on whether the digit to be replaced has a first value or different value". The examiner respectfully disagrees. The applicant argues limitations that which are not claimed, in response to applicant argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. "creating a water mark", "replacing a current binary digit with either optimized code segments or non-optimized segments" has not been disclosed) are not recited in the rejected claim(s). Any ordinary skilled in the art reasonable interprets the claimed limitation "binary digit in the watermark" not "creating the watermark". Further, the claim mentions "replacing a first optimized code segments with a first non-optimized code segment only if the current binary digit has a first value" not in the way applicant argues, "replacing a current binary digit with either optimized code segments or non-optimized code segments". Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). All the claims rejections are already shown in the final office action. .

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HOUSTON TX 77056

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Murray, et al.
Application No. 10/223,205
Filed: August 16, 2002
Attorney Docket No. NVDA/P002831
For: METHOD AND APPARATUS FOR WATERMARKING BINARY COMPUTER CODE WITH MODIFIED COMPILER OPTIMIZATIONS

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

This application became abandoned for failure to timely reply to the final Office action, mailed September 6, 2006, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being filed, the application became abandoned on December 7, 2006. A Notice of Abandonment was mailed on February 6, 2008.

Applicants have submitted a RCE and required fee and amendment in reply to the September 6, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 6, 2006 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2436 for consideration of the RCE and amendment filed on January 20, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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Technology Center 2100

In re Application of: Kanasugi, et al.
Application No. 10/223,216
Attorney Docket No. 108397-00083
Filed: August 20, 2002
For: ERROR DETECTOR, SEMICONDUCTOR DEVICE, AND ERROR DETECTION METHOD

DECISION ON PETITION *under 37 CFR §1.181* TO ACCEPT PAPERS AS TIMELY FILED

This is a decision on the petition to accept papers as timely filed, submitted under 37 CFR §1.182, filed on September 14, 2004. The petition will be treated as a petition for acceptance of papers as timely filed under 37 CFR §1.181.

A review of the file record shows that non-final Office action was mailed on January 20, 2004, setting a three month shortened statutory period for response. Applicant's response, including a check in the amount of $950.00, acknowledged as having been received in the PTO on July 20, 2004, is not of record in the application file and cannot be located.

In support of the petition, Petitioner provides a copy of the amendment, petition for three-month extension of time, and a post card with a PTO stamp indicating receipt of such papers at the USPTO on July 20, 2004.

MPEP § 203.08 states in relevant part:

> < A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive.

In addition, MPEP § 503 states in part:

> The identifying data on the postcard should be so complete as to clearly identify the item for which >a< receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, **title of the invention**, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted**. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

Petitioner has established that the papers were timely filed. Accordingly, the petition is **GRANTED**.

Applicant is reminded of the requirements of MPEP 503 to ensure future submissions of proof of filing are complete with all available information of the identifying data on the postcard as outlined in MPEP § 503, to ensure a complete and proper *prima facie* showing of proof of filing of such papers.

The application file is being forwarded to the technical support staff for entry of the response (copy filed September 14, 2004) as well as to process the request for extension of time ($950.00 charged to deposit account No. 01-2300). From there, the application file will be forwarded to the examiner for appropriate action.

11/2/04

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

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438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

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JUN 1 0 2004
OFFICE OF PETITIONS

Applicant: Beshai
Appl. No.: 10/223,222
Filing Date: August 20, 2002
Title: MODULAR HIGH-CAPACITY SWITCH
Attorney Docket No.: 92644-9
Pub. No.: US 2004/0037558 A1
Pub. Date: February 26, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 20, 2004 for the above-identified application.

The request is granted.

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

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

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

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P.O BOX 1245
CARY, NC 27512-1245

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Johnson et al.	:	
Application No. 10/223,236	:	DECISION ON PETITION
Filed: August 19, 2002	:	
Attorney Docket No. P-6056-06-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 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 3753 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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APR 14 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

In re Application of :
Did-Min SHIH, et al. :
Application No. 10/223,246 : DECISION ON PETITION
Filed: August 20, 2002 :
For: **PERSONAL COMMUNICATION DEVICE WITH TRANSMITTED RF POWER STRENGTH INDICATOR AND WARNING SYSTEM** :

This is a decision on the petition, filed December 16, 2005, under 37 CFR 1.181 to request that the Director invoke his supervisory authority by convening a pre-appeal brief conference in accordance with a pilot program announced in an Official Gazette notice of July 12, 2005.

PERTINENT FACTS

A review of the application file reveals a Final Office action was mailed July 26, 2005. On October 25, 2005, petitioner filed an amendment After Final canceling claim 24 and providing arguments. On October 26, 2005, petitioner filed a Notice of Appeal and a Pre-Appeal Brief Request for Review. The Request states that "No amendments are being filed with this request."

On December 22, 2005 a "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed informing applicant that the request was improper inasmuch as a proposed after final amendment was filed concurrently.

DISCUSSION

The United States Patent and Trademark Office Official Gazette Notice dated July 12, 2005, states under Section 8. Administrative Matters that "Panel decisions will not be petitionable because a decision to maintain a rejection is subject to appeal."

The petition is therefore **DISMISSED AS MOOT**.

Furthermore, a review of the file finds that an Appeal Brief was filed January 30, 2006 and an Examiner's Answer was mailed on March 13, 2006.

Andrew Faile, Director
Technology Center 2600
Communications

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IAN C. McLEOD, P.C.
2190 COMMONS PARKWAY
OKEMOS MI 48864

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AUG 18 2008

In re Patent No. 6,723,802 :
Issue Date: April 20, 2004 :
Application No. 10/223,266 : DECISION ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. **MSU 4.1-567** :

This is a decision on the petition under 37 CFR 1.378(c), filed June 30, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 20, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

The patent file is being forwarded to Files Repository.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 5, 2006

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/223271 patent No.: 6,988,982,

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANGELA D. SYKES
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 3700

SPE

3762/3766

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C. John Brannon
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis IN 46204

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OFFICE OF PETITIONS

Paper No. 9

In re Application of	:	
Gary GLOODT	:	
Application No. 10/223,272	:	ON PETITION
Filed: August 19, 2002	:	
Attorney Docket No. 9095	:	

This is a decision on the petition under 37 CFR 1.181, filed March 22, 2004, to withdraw the holding of abandonment, and the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Corrected Application Papers mailed September 13, 2002, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 14, 2002.

Petitioner asserts that the Notice of Abandonment mailed January 30, 2004 be withdrawn as petitioner filed a timely reply to the Notice to File Corrected Application Papers mailed September 13, 2002. To support this assertion, petitioner has submitted: (1) a copy of a return postcard which acknowledges receipt by the United States Patent and Trademark Office (USPTO) on September 24, 2002 of a Notice to File Corrected Application Papers.

The response to the Notice to File Corrected Application Papers is acknowledged as having been received in the USPTO on September 24, 2002 is not of record in the application file and cannot be located. However, MPEP 503 states, "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly,

it is concluded that response to the Notice to File Corrected Application Papers was timely received in the USPTO but lost after receipt thereof.

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

Furthermore, in view of the above decision, the petition under 37 CFR 1.137(b) is unnecessary. Accordingly, the $750 petition fee submitted with the petition on August 4, 2005 is unnecessary, 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.

The application is being referred to the Office of Initial Patent Examination.

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.

Brian Hearn
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of
Bernard T. Clark
Application No. 10/223,288
Filed: August 19, 2002
Attorney Docket No. 4385P001

NOTICE

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

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

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

This 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) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
Stephen C. Steinhilber :
Application No. 10/223,293 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. SS-1-GG :

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2004, 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 May 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 6, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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

COPY MAILED

MAY 12 2008

In re Application of :
BARTOLUCCI, John P. :
Application No. 10/223,307 : DECISION ON PETITION
Filed: August 15, 2002 : TO WITHDRAW
Attorney Docket No. **02-1068CIP** : 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 19, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to ROPES & GRAY LLP has been revoked by the assignee of the patent application on April 24, 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
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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Paper No.

AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Foster et al. : DECISION ON PETITION
Application No. 10/223,359 :
Filed: August 20, 2002 :
Atty Docket No. 20009.0127US01 :
(02272) :

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed May 19, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a response to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed October 22, 2007. This Office communication set a one month time period for reply with extensions of time obtainable under § 1.136 for up to five months. No response was received and no extension of time was obtained. No claims stand allowed. Accordingly, the appeal was, in effect, withdrawn and the application became abandoned on November 23, 2007. The filing of this petition precedes the mailing of a courtesy Notice of Abandonment.

Applicants request that the holding of abandonment be withdrawn on the basis that the Notification of Non-compliant Appeal Brief was not received. Attorney for applicants states that the file jacket has been searched. In support of a showing of non-receipt, applicant submits without explanation a paper that he terms a copy of the docket entries page for this matter to show that the Notification mailed October 22, 2007 has not been

docketed. Applicants also request that the appeal filed on October 10, 2007 be reinstated.

The PALM record for this application has been reviewed, and it supports a conclusion that there was an irregularity in the mailing of the Notification of Non-compliant Appeal Brief mailed October 22, 2007. Although the Notice is present in the image file wrapper for the application, consistent with applicants' assertion of non-receipt, the PALM record indicates that the Notification was prepared but not mailed. Thus, the presumption that the correspondence was properly mailed to the applicant at the correspondence address of record is overcome.

It is noted that otherwise petitioner's showing would not have been adequate. In short, petitioner is reminded that the showing of nonreceipt requires that practitioner state that the Notice was not received at the correspondence address of record; state that he searched the file jacket and docket records; describe the docketing system (i.e. had this Office action been received how and where would it have been entered in the docketing system?); provide a copy of the master docket or state that no master docket exists; and make clear that any docket record submitted shows where the Notice would have been entered had it been received. See MPEP 711.03(c).

In view thereof, any holding of abandonment is withdrawn.

No fee is required on petition under § 1.181.

Receipt of the amended appeal brief filed May 19, 2008.

Technology Center AU 2194 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment, to process the Amended Appeal Brief submitted on petition filed May 19, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T Legal Department - PK
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster NJ 07921

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In re Application of	:	
Foster et al.	:	
Application No. 10/223,359	:	DECISION ON PETITION
Filed: August 20, 2002	:	
Attorney Docket No. 02272	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 20, 2009, as required by the Notice of Allowance and Fee(s) Due mailed August 20, 2009. Accordingly, the date of abandonment of this application is November 21, 2009. A Notice of Abandonment was mailed December 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1,510.00 issue fee; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Jennifer Pearson Medlin
1117 Perimeter Center West, Suite E402
Atlanta, GA 30338

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.

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Hitoshi Miwa, et al. :
Application No. 10/223,370 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 501.35478CX12 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 9, 2002, 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 31, 2002, 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]

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

---

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that th pr viously paid issue fee be applied towards the n w Notice and payment of any balance due will result in th abandonment of th application.**

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)
6939387	2005-09-06	10223388	2002-08-19	818530.3

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	/Donald S. Showalter/	Date (YYYY-MM-DD)	2009-10-27
Name	Donald S. Showalter	Registration Number	33033

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6939387
Issue Date: September 6,2005
Application No. 10223388
Filed: August 19,2002
Attorney Docket No. CASC 100

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

This is a decision on the electronic petition, filed October 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHIEF INTELLECTUAL PROPERTY COUNSEL
BRIDGESTONE/FIRESTONE, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317-0001

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Xiaorong Wang, et al. :
Application No. 10/223,393 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. FIRZ 2 0087-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 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 January 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 4, 2005.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/11/10

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No 10/223,417.: 7558198

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: _____

_____

_____

_____

_____

/Hong Cho/
SPE

2467
Art Unit

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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON, TX 77027-9012

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Irvin A. Harrison :
Application No. 10/223,447 : DECISION ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. HARA,002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 17, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 18, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lack items (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on February 18, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mark R. Wisner was counsel of record at the time of abandonment, Mark R. Wisner should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed outside of Mr. Wisner. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mark R. Wisner and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as

opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

The centralized facsimile number is (571) 273-8300.

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

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) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON, TX 77027-9012

COPY MAILED

MAR 3 0 2009

OFFICE OF PETITIONS

In re Application of :
Irvin A. Harrison :
Application No. 10/223,447 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. HARA,002 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (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) 272-3210.

This application is being referred to Technology Center AU 3643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027-9012

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of
Irvin A. Harrison
Application No. 10/223,447
Filed: August 19, 2002
Attorney Docket No. HARA.002

DECISION

This is a decision on the paper entitled "RENEWED REQUEST FOR REFUND OF PETITION FEE (37 C.F.R. 1.26(b) AND RESTORATION OF PATENT TERM" filed April 17, 2009.

The request is **DISMISSED**.

A petition to revive under 37 CFR 1.137(b) was filed on November 7, 2008, and dismissed on December 22, 2008. A renewed petition was filed on March 2, 2009 and granted on March 30, 2009. A request for refund and a request for restoration of patent term were also embedded in the petition filed March 2, 2009. However, the requests were not addressed in the decision mailed March 30, 2009.

As to the request for refund of the petition fee, petitioner's arguments have been considered; however, Petitioner is encouraged to note the below:

The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c). See 37 CFR 1.116(c).

Further, MPEP 711.03 (c) states that:

[T]he 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.

In view of the above, the request for refund of the petition fee is dismissed.

As to the matter regarding the request for restoration of patent term:

Applicant's request for restoration of patent term set forth in the petition to revive was not proper. Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. See 37 CFR 1.4(c). As such, the request for restoration of patent term should have been set forth in a separate paper from the petition to revive filed March 2, 2009 and the request for refund filed April 17, 2009.

Furthermore, the request for restoration of patent term was premature and was not made in the proper form. No determination of patent term has been made in this application. The Office will calculate and mail applicant an initial determination of patent term adjustment at the time of the mailing of the notice of allowance. Thereafter, any request for patent term adjustment is by way of application for patent term adjustment filed pursuant to 37 CFR 1.705(b). Further, such request is to be set forth with the required fee and within the time frame set forth in the rule (after the mailing of the notice of allowance and prior to payment of the issue fee). (See also 37 CFR 1.705(d) with respect to request for reconsideration of the patent term adjustment set forth on the patent).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARY C. COHN, PLLC
1147 NORTH FOURTH STREET
UNIT 6E
PHILADELPHIA, PA 19123

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APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Richard C. Bopp et al :
Application No. 10/223,451 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 1165 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 19, 2005, 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 March 20, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on December 1, 2006.

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

This matters is being referred to Technology Center AU 1732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

501.35478CX13

OIPE
MAR 3 0 2004
TRADEMARK OFFICE

Paper No.

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

CCB

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DEC 1 0 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hitoshi Miwa et al
Application No. 10/223,485
Filed: August 20, 2002
Attorney Docket No. 501.35478CX13

This is a decision on the petition, filed December 9, 2002, 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 31, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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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DIVERSA CORPORATION
4955 DIRECTORS PLACE
SAN DIEGO CA 92121

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of :
Jay Short :
Application No. 10/223,507 : DECISION ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. DIV-1460-11A :
Title of Invention: Non- Stochastic :
Generation of Genetic Vaccines :

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

This above-identified 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 23, 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 June 24, 2004. This decision precedes the mailing of a Notice of Abandonment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-07

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of :
Pacey et al. :
Application No. 10/223,519 :
Filed: 19 August, 2002 :
Atty Docket No. 47079-0131 :

ON PETITION

This is a decision on the petition filed on 6 February, 2007, under 37 CFR 1.137(b), which, in view of petitioner's statement that the Notice of Abandonment was issued prematurely, is first treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application.

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

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

The application was held abandoned for failure to timely file a proper Appeal Brief in compliance with 37 CFR 41.37. Notice of Abandonment was mailed on 26 December, 2006.

A review of the record reveals the following:

1. On 19 August, 2002, the instant application was filed.

2. On 10 November, 2005, a final Office action was mailed, setting a three (3) month period for reply.

3. On 9 May, 2006, a Notice of Appeal was filed, along with a three (3) month extension of time.

4. On 21 June, 2006, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed. The time period for filing the Appeal Brief was reset to be the greater of one (1) month from the mailing of the instant Notice or two (2) months from the filing of the Notice of Appeal.

5. On 21 July, 2006, an Appeal Brief was filed.

6. On 1 September, 2006, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed, setting a one (1) month shortened period for reply. Extensions of time were available under 37 CFR 1.136.

7. On 25 September, 2006, an amended Appeal Brief was filed.

8. On 11 October, 2006, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was again mailed, setting a new (1) month shortened period for reply. Extensions of time were available under 37 CFR 1.136.

9. On 19 October, 2006, an amended Appeal Brief was filed.

10. On 26 December, 2006, a Communication Re: Appeal was mailed, stating that the application was abandoned because a proper Appeal Brief had not been timely filed in accordance with 37 CFR 41.37.

Petitioner asserts that the Notification mailed on 11 October, 2006, set a new period of reply; for which extensions of time could be obtained.

Upon review, petitioner's contention is well taken. The Notification mailed on 11 October, 2006, stated that an amended brief or other appropriate correction must be filed within ONE MONTH or THIRTY DAYS from the mailing date of the Notification. Extensions of time were also available. As such, a new period for reply was set by the Notification mailed on 11 October, 2006. Therefore, the amended Appeal Brief filed on 19 October, 2006, was timely filed in response thereto.

The holding of abandonment is withdrawn. The communication mailed on 26 December, 2006, is vacated to the extent it stated the application was abandoned.

As the holding of abandonment has been withdrawn, the petition fee is unnecessary, and will be credited to counsel's deposit account, No. 50-1891, as authorized in the present petition.

The file is being referred to Technology Center 3714 for further processing.

All other inquiries regarding this decision 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

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

ROBERT L. MARSH
P.O. BOX 4468
WHEATON, IL 60189-4468

MAILED
FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

In re application of
Carlton Leslie et al.
Application No. 10/223,520 : DECISION ON REQUEST
Filed: August 19, 2002 : FOR WITHDRAWAL OF
For: MAIN LINE WAYSIDE RAIL LUBRICATING : ATTORNEY
SYSTEM WITH FEEDBACK

This is a decision on the request filed on October 18, 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

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), given the statement included in the request that, "Applicant has not paid attorney fees for prior amendments prepared by attorney of record"; is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/slb: 11/05/04

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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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST.
MINNEAPOLIS, MN 55402

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Knuston, et al. :
Application No. 10/223,522 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 23896.325 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed January 21, 2004. Accordingly, this application became abandoned on April 22, 2004. A Notice of Abandonment was mailed on August 25, 2004.

The file is being forwarded to Technology Center 3700, for review of the amendment, filed December 13, 2004, *in due course*.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Cummings & Lockwood
700 State Street
P. O. Box 1960
New Haven, CT 06509-1960

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Leonid Shturman, et al.
Application No. 10/223,527
Filed: August 19, 2002
Attorney Docket No. 805405.0004 (SHT-101.1)

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

Papers filed on February 24, 2003 and supplemented on February 26, 2003, included a Declaration signed by a previously non-signing inventor, Leonid Shturman, in compliance with 37 CFR 1.63.

The petition is dismissed as moot.

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

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

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 13

Scott D. Wofsy
Edwards & Angell, LLP
PO Box 9169
Boston, MA 02209

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Shturman et al. :
Application No. 10/223,527 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 58885 (49359) :

This is a decision on the petition filed May 5, 2003, to accord the above-identified application a filing date of August 19, 2002, instead of December 23, 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 19, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of August 19, 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
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ERNEST D. BUFF
ERNEST D. BUSS & ASSOCIATES
245 SOUTH STREET
MORRISTOWN, NJ 07960

COPY MAILED

MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Valerie P. Bagot :
Application No. 10/223,528 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 0014-1 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 1, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-56852.

This matter is being referred to Technology Center AU 3677 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 25, 2008

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No 10/223532 patent no7257710

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ MR 2436

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
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Paper No. 8

JAMES E. BRADLEY
BRACEWELL & PATTERSON, LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of :
Scott et al. :
Application No. 10/223,533 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 024-29289 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 27, 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 December 15, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 16, 2004. A Notice of Abandonment was mailed July 29, 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 Technology Center 3600 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

MAY 7 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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#9 DW

MAILED

MAY - 7 2004

OFFICE OF THE DIRECTOR
TC 3600

PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O.BOX 450A
Santa Clara, CA 95052

In re Application of :
Masato M. Toshima, et al. :
Application No. 10/223,540 :
Filed: August 19, 2002 :
For: DUAL CASSETTE LOAD DOCK :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on December 3, 2003. The delay in considering this petition is sincerely regretted.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated March 18, 2003 and a Notice to that effect was mailed on November 3, 2003.

Petitioner states that a response was filed on July 18, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated July 18, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate. Therefore a statement from Valerie G. Dugan is required.

Further, the copy of the facsimile confirmation/transmittal page having the July 18, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

On December 5, 2003 $130 was charged to petitioner's deposit account as authorized in the petition. However, since the requested relief is the withdrawal of the holding of abandonment due to USPTO error no fee is due. The $130 fee will be credited to Deposit Account No. 04-1696 in due course.

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

RAR/cps: 4/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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#11 DW

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Patent Counsel
Applied Materials, Inc.
Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

MAILED

SEP - 7 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Masato M. Tashima et al.
Application No. 10/223,540
Filed: August 19, 2002
For: DUAL CASSETTE LOAD LOCK

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 6, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on July 18, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb/ 8/31/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Stout, Uxa, Buyan & Mullins, LLP
4 Venture, Suite 300
Irvine CA 92618

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FEB 10 2003

OFFICE OF PETITIONS

In re Application of :
Amis et al. :
Application No. 10/223,568 : DECISION GRANTING PETITION
Filed: August 19, 2002 :
Attorney Docket No. AM9526P :

This is a decision on the petition under 37 CFR 1.53(e), filed November 20, 2002 (certificate of mailing November 13, 2002), requesting that the above-identified application be accorded a filing date of August 19, 2002, with Figure 33 as part of the original disclosure.

On August 19, 2002, applicants filed the above-identified application. On September 13, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of a Nonprovisional Application" (Notice), requiring the submission of an executed oath or declaration and a surcharge for its late filing. Additionally, the Notice stated that the application had been accorded a filing date of August 19, 2002, and advised applicants that Figure 33 appeared to have been omitted.

In response, on November 20, 2002 (certificate of mailing November 13, 2002), applicants filed, *inter alia,* the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 10 sheets of drawings on August 19, 2002. Additionally, applicants submitted a copy of Figure 33 with the present petition.

In the present petition, applicants request that the application, including Figure 33, be accorded a filing date of August 19, 2002, and the petition fee be refunded.

Upon review of the record, Figure 33, deposited on August 19, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 19, 2002, included Figure 33, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 33, was complete on filing and will be granted a filing date of August 19, 2002.

Accordingly, the petition is granted.

The requirement for the submission of Figure 33 set forth in the Notice of September 13, 2002, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-1600.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 19, 2002, using Figures 1a-32 and 34-37 submitted on August 19, 2002, and Figure 33, submitted with the petition, and for the mailing of a corrected filing receipt. The Office records should indicate that 10 sheets of drawings were submitted on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

WOLF GREENFIELD & SACKS PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Linna, et al. :
Application No. 10/223,573 : DECISION ACCORDING STATUS
Filed: August 19, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. T00525/70000 :
NPF/WAN

This is in response to the petition under 37 CFR 1.47(a), filed December 30, 2002 (Certificate of Mailing dated December 26, 2002).

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

The above-identified application was filed on August 19, 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, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration signed by joint inventors Jan-Roger Linna, Bernard J. Challen, John Mello, Peter Palmer, and Richard Stobart, but lacking a signature from joint inventor Robert Bowyer.

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 Neil P. Ferraro included a statement of facts from Joseph M. Centofanti, General Counsel of TIAX, LLC. Centofanti attested that the application papers were mailed to

Bowyer on September 17, 2002. A copy of the letter transmitting the application papers was included. According to Centofanti, no executed declaration from Bowyer has been received.

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

ROBERT BOWYER
56 BARLOW RD LINTON
CAMBRIDGE CB1 GLY
UNITED KINGDOM

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Jan-Roger Linna, Robert Bowyer, :
Bernard J. Challen, John Mello, :
Peter Palmer, and Richard Stobart : LETTER
Application No. 10/223,573 :
Filed: August 19, 2002
Title: METHOD OF CONTROLLING
COMBUSTION IN A HOMOGENEOUS CHARGE
COMPRESSION IGNITION ENGINE

Dear Ms. Bowyer:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Neil P. Ferraro
Wolf Greenfield & Sacks PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston Ma 02210-2211
617-720-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/223,591	08/19/2002	Charles T. Markantes	13676.165	7398

27975 7590 09/14/2005

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

EXAMINER	
GEISEL, KARA E	

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

In re Patent No. MARKANTES, CHARLES T.
Appl No.: 10/223,591
Filed: August 19, 2002
For: METHODS AND SYSTEMS FOR VERIFICATION OF INTERFERENCE DEVICES

DECISION GRANTING PETITION
37 CFR 1.48(a)

This is a decision on the petition filed July 1, 2005 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed July 1, 2005 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 name:

Paul G. Coombs

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.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

30Aug05

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CALFEE, HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Yasuko Rikihisa, et al. :
Application No. 10/223,598 : DECISION ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 22727/04133 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 2008, to revive the above-identified application.

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

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.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by

37 CFR 41.20(b) (2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1645 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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#3

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JUN 05 2003

Office of the Director
Group 3600

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

In re application of
Iris Inbar et al.
Application No.10/223,603 : DECISION ON REQUEST
Filed: August 20, 2002 : FOR WITHDRAWAL OF
For: SYSTEM FOR MONITORING : ATTORNEY

This is a decision on the request filed on March 19, 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. Please note that the reason provided, that the law firm representing the client is closing down business is not a proper reason as enumerated. This is not the same reason as the practitioner is discharged by the client.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dxn: 6/4/03

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Director's Office
Group 2700

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

Paper No. 21

Robert E. Bushnell
1511 K. Street N.W.
Suite 425
Washington, D.C. 20005

RECEIVED
FEB 26 1998

In re Application of
Gwon-Il Kim
Application Serial No.
08/447,279
Filed: May 22, 1995
For: SERVO CONTROLLER APPARATUS AND METHOD OF DISK RECORDING SYSTEM

DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the renewed petition filed August 25, 1997 under 37 C.F.R. § 1.181 of the repeated requirement of the Examiner to label Applicant's Figures one through three as "prior art". The petition is treated as a request for reconsideration of the previous decision of August 19, 1997 in which the requirement of labeling figures one through three as "prior art" was maintained.

A careful review of the application papers indicates that the subject matter of figures one through three is considered by applicant to be "conventional". However, there is no indication in the disclosure that the subject matter of the figures is expressly considered by the applicant to be "prior art". "When applicant states that something is prior art, it is taken as being available as prior art against the claims. Admitted prior art can be used in obviousness rejections. In re Nomiya , 184 USPQ 607, 610 (CCPA 1975) (Figures in the application labeled "prior art" held to be an admission that what was pictured was prior art relative to applicant's invention.)" See M.P.E.P. § 2129. The decision, supra, was cited by both petitioner and the deciding official in the previous petition. Whether the subject matter of figures one through three of the instant application is prior art against the claims is an appealable determination and, accordingly, will not be entertained in this decision, see M.P.E.P. § 1201.

There is no requirement that a particular figure or figures be labeled as "prior art". The MPEP at section 608.02(g) indicates that if prior art figures are to be retained in the file they

should be designated with the legend of "prior art". No requirement is made for an applicant to label figure(s) as "prior art" where there is no such indication in the disclosure.

Consequently, the requirement that figures one through three each be designated by the legend of "prior art" is withdrawn.

As the time for perfecting the appeal under 37 C.F.R. § 1.192(a) has expired without the submission of an Appeal Brief, the appeal is hereby dismissed, 37 C.F.R. § 1.192(b). The application file will be forwarded to the examiner for appropriate action in due course.

SUMMARY: Petition GRANTED.

Gerald Goldberg

Gerald Goldberg, Director
Technology Center 2700-
Communications and Information Processing

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#15

In re Application of
MYUNG-CHAN JEONG
Serial No: 08/343,939
Filed on : November 17,1994
For : DIGITAL SERVO CONTROL APPARATUS AND METHOD OF DATA STORAGE SYSTEM USING DISK RECORDING MEDIA

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition filed on September 13, 1996 requesting the withdrawal of the requirement to label Fig. 3 as "Prior Art".

The petition is GRANTED.

A review of the record indicates that figure 3 as originally filed and discussed was referred to as "CONVENTIONAL". Hence, in keeping with the disclosure and petitioner's arguments, the examiners' requirement to label this figure as "Prior Art" is incorrect and withdrawn.

Summary: The petition is Granted.

Jin F. Ng, Deputy Director
Examining Group 2500
Electrical and Optical Systems
and Devices

JFN/AMP

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OCT 2 - 1996
OFFICE OF THE DIRECTOR
GROUP 2500

Robert E. Bushnell
1511 K Street N.W.
Washington, D.C. 20005

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DEC 15 1999

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Group 3600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

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DEC 17 1999
By NA

ROBERT E BUSHNELL
ATTORNEY-AT-LAW
1522 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20005-1202

In re application of
Hae-Won Ahn P54947
Serial No.: 08/985,544
Filed : December 5, 1997
For: FRONT CASE STRUCTURE OF CRT DISPLAY DEVICE

: DECISION ON PETITION
: UNDER 37 CFR §1.181
: REQUESTING THAT
: THE COMMISSIONER
: INVOKE SUPERVISORY
: AUTHORITY

In the renewed petition filed September 9, 1999, applicant requested that the Commissioner invoke supervisory authority by instructing the examiner to withdraw the requirement that Figs. 1 and 2 be labeled as "Prior Art". The petition is GRANTED.

This petition presents two issues. First, are the figures in question necessary to the understanding of the invention? A review of the application has been made and it is considered that the figures are necessary to the understanding of the invention. Second, are the figures required to be labeled with the legend "Prior Art"?

A careful review of the application papers indicates that the subject matter of Figures 1 and 2 are considered by applicant to be "conventional". However, there is no indication in the disclosure that the subject matter of the figures is expressly considered by the applicant to be "Prior Art". If applicant states that something is prior art, it is available for use against the claims. See In re Nomiya, 184 USPQ 607 (CCPA 1975), MPEP §2129. No opinion is expressed in this decision whether the subject matter of Figures 1 and 2 are "Prior Art" since this is an appealable issue, MPEP §1201.

Finally, any concerns raised in the previous decision regarding applicant's duty of disclosure are withdrawn. The Office does not normally investigate such issues. 1135 Off. Gaz. Pat. Office, 13 (Jan. 9, 1992).

This application is being forwarded to the examiner for reinstatement of Figs. 1 and 2 and deletion of the amendment after final filed August 4, 1999.

Al Lawrence Smith, Director
Technology Center 3600
(703) 308-1020
AK
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UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Baek-Woon Lee	:	
Application No. 10/223,641	:	DECISION GRANTING PETITION
Filed: August 19, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YOM-0005	:	

This is a decision on the petition, filed March 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 November 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2674 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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SEP 0 4 2003

OFFICE OF PETITIONS

Emery L. Tracy
P.O. Box 1518
Boulder, CO 80306-1518

In re Application of	:	
Mears, et al.	:	DECISION GRANTING
Application No. 10/223,665	:	PETITION UNDER 37 CFR
Filed: August 19, 2002	:	1.137(b)
Atty. Dkt. No.: F012.PAT-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned February 27, 2003 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed September 26, 2002. The Notice set a two (2) month shortened statutory period for reply. A petition for an three (3) month extension of time in accordance with 37 CFR 1.136(a) was timely filed. This decision precedes Notice of Abandonment.

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

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Blank Rome, LLP
600 New Hampshire Ave., NW
Washington, DC 20037

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Jozef Johannes Theresia Rompa :
Application No. 10/223,691 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 000023.00112 :

This is a decision on the petition, filed September 10, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The delay in responding is regretted.

The petition under 37 CFR 1.181 is **DISMISSED**.

Petitioner argues that a change of correspondence address was filed on June 13, 2003. A review of the record discloses that a change of correspondence address supposedly filed on June 13, 2003, was directed toward application Nos. 10/445,327, 10/443,327 and 1,300 other applications all listed on the same sheet of paper.

Petitioner's attention is directed to 37 CFR § 1.4(b), which states, "Since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical".

Further, unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. See MPEP 601.03.

In this case, petitioner submitted a change of correspondence address on June 13, 2003. Petitioner simply provided one copy of the paper requesting a change of address, which was ultimately processed to update the change for the first captioned application (10/445,327).

Consequently, the Notice of Allowance and Fee(s) Due mailed May 24, 2004, was sent to the proper address of record. Therefore, this application was correctly held abandoned by operation of law after midnight August 24, 2004.

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 petition fee.

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

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

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

Blank Rome, LLP
600 New Hampshire Ave., NW
Washington, DC 20037

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Jozef Johannes Theresia Rompa	:	
Application No. 10/223,691	:	ON PETITION
Filed: August 20, 2002	:	
Attorney Docket No. 000023.00112	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on April 26, 2006 and July 13, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed May 24, 2004.

Since the petition satisfies the requirements of 37 CFR 1.137(b), in that petitioner has supplied (1) the reply in the form of $665 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES 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. 3

BAKER & BOTTS
30 Rockefeller Plaza
New York, NY 10112

MAR 18 2004

In re Application of:
SELLI *et al.*
Serial No.: 10/223,692
Filed: August 15, 2002
Attorney Docket No.: **A35330 - 073621.0112**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 15, 2002, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(i), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

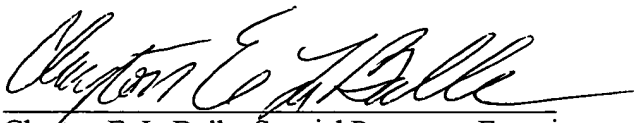
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

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

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

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON, DC 20005

COPY MAILED

APR 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Woo-Young Yoon :
Application No. 10/223,694 : DECISION GRANTING PETITION
Filed: August 20, 2002 : UNDER 37 CFR 1.47(b)
For: HEAD SUSPENSION ASSEMBLY FOR :
HARD DISK DRIVE :

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(b)," filed April 1, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor cannot be located. Specifically, the statement of facts and declaration by Assistant Manager Seong-Sik Hwang establishes that the inventor cannot be located. In addition, petitioner has shown that Samsung Electronics Co., Ltd. has a proprietary interest in the above-identified application with the memorandum of law establishing that a court of competent jurisdiction would award title to Samsung Electronics Co., Ltd. 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 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 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination is authorized to

(1) accept this application under Rule 1.47(b);

(2) process the application with the inventor being Woo-Young Yoon and with the indication that the application was filed by Samsung Electronics Co., Ltd. as the party in interest under 35 U.S.C. § 118, using the Declaration filed on November 13, 2002; and

(3) mail a corrected filing receipt with a filing date of August 20, 2002.

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

The above-identified application will be forwarded to the Office of Initial Patent Examination for further processing and issuance of a corrected filing receipt.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON, D.C. 20005

COPY MAILED

MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Woo-Young Yoon :
Application No. 10/223,694 : DECISION REFUSING STATUS
Filed: August 20, 2002 : UNDER 37 CFR 1.47(b)
For: HEAD SUSPENSION ASSEMBLY FOR :
HARD DISK DRIVE :

This is in response to the petition under 37 CFR 1.47(b), filed November 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO 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 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 an executed oath or declaration and naming Woo-Young Yoon as the sole inventor.

Accordingly, on September 13, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, filing fee, and surcharge for their late filing.

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 item (6), as set forth above.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

(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 item (6), as set forth above.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

MAIL

AUG 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Woo-Young Yoon
Application Serial No.: 10/223,694
Filed: August 20, 2002
For: **HEAD SUSPENSION ASSEMBLY FOR HARD DISK DRIVE**

DECISION
ON PETITION

This is a decision on the petition filed August 12, 2005 pursuant to 37 CFR § 1.181 in regard to the Examiner's Refusal to enter an amendment after final Office action.

Petitioner states that the "..feature at issue, the same horizontal plane, has already been considered with respect to claims 3 and 14...Since claim 3 already include all the features of claim 1, by definition of a dependent claim, then claim 1 as amended can not possibly raise new issues that would require further consideration and or search..".

A review of the file records reveal that a final Office action was mailed on March 30, 2005 wherein claims 1-8 and 10-20 were rejected over applied art and claim 9 was objected to as being dependent upon a rejected base claim.

On June 3, 2005, applicants responded to the outstanding final Office action by canceling claims 3 and 9, amending claims 1, 4 and 7, with claim 7 being written in independent form.

On June 22, 2005 and advisory action was mailed which indicated that applicant's amendment would not be entered given that the amendment raised new issues, specifically, "The limitation of the same 'horizontal' plane would require further consideration or search".

Petitioner is correct in stating that the limitation "the same horizontal plane" was present in dependent claim 3 prior to the amendment. However, this limitation was not in the claim chains involving claim 2/1 or 7/1 or 8/7/1 or 9/8/7/1 or 10/7/1 or 11/7/1 or 12/1 or 13/1. Had applicant merely written claim 3 into independent form with all of the limitation of the independent claim 1, and had applicant merely copied all of the limitations of the independent claim 1, without claim 3, into dependent claim 7 (i.e., rewriting claim 7 into independent form), then applicant would have been correct in stating that all limitations had already been considered and thus would not have raised a new issue.

However, given that applicant copied the limitations of claim 3 into claim 1 instead of copying the limitations of claim 1 into claim 3, and also given that applicant used the limitations of claims 1 and 3 to write claim 7 into independent form, then applicant has now introduced limitations into claim trees which had not previously been considered by the examiner prior to the final Office action. For example, the claim set of 2/1 prior to the after-final amendment, required all of the particulars of claim 1 with a flexible circuit board being disposed within the same plane and further defined the flexible circuit board as being fixed to said actuator body by adhesives. Nowhere within either claim 1 or as further limited by claim 2, was there the description that the "same plane" was a horizontal plane.

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 complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1207. [emphasis added]

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, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section. [emphasis added]

Applicant has attempted in their June 3, 2005 amendment to add limitations to the claims after final which had not previously been considered within the various claim structures and thus, in accordance with 37 C.F.R. §1.116 and MPEP §714.12, the examiner was correct in denying the amendment after final Office action as raising new issues.

Accordingly, Applicant's petition to have the amendment after final entered is **DENIED**.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOMBARDIER RECREATIONAL PRODUCTS INC
INTELLECTUAL PROPERTY DEPT
P O BOX 230
NORTON, VT 05907-0230

COPY MAILED

JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Jean-Francois Forest, et al. :
Application No. 10/223,697 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 086168-265322/RP-00407-US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2004, 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 May 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August 20, 2004.

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

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
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

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE SUITE 1400
CLEVELAND OH 44114

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Bakaletz et al. :
Application No. 10/223,711 : DECISION ON PETITION
Filed: 19 August, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18525-04058 :

This is a decision on the "Petition to Accept Unintentionally Delayed Claim of Priority Under 37 C.F.R. § 1.78(a)(6)," filed on 20 October, 2006, which is properly being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Patent 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 1645 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions 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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/223,711	08/19/2002	1645	870	18525-04058	5	3	1

CONFIRMATION NO. 1549

CORRECTED FILING RECEIPT

OC000000022050026

24024
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Date Mailed: 01/18/2007

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

Applicant(s)

Lauren O. Bakaletz, Columbus, OH;
Pravin T.P. Kaumaya, Westerville, OH;

Power of Attorney:

Pamela Docherty--40591

Domestic Priority data as claimed by applicant

This application is a DIV of 09/148,711 09/04/1998 PAT 6,436,405
which is a CON of 08/460,502 06/02/1995 PAT 5,843,464

Foreign Applications

If Required, Foreign Filing License Granted: 09/11/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/223,711

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Synthetic chimeric fimbrin peptides

Preliminary Class

424

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

OCT 24 2002

Paper No. 3

In re Application of	:	
John E. Bennett	:	
Serial No. 10/223,716	:	DECISION ON PETITION
Filed: August 20, 2002	:	TO MAKE SPECIAL
For: GOLF CLUB PUTTER HEAD	:	

Applicant's petition, filed August 20, 2002, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

John E. Bennett
1570 Homewood Drive
Altadena, CA 91001

UNITED STATES 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. 6679517
Issue Date: January 20,2004
Application No. 10223735
Filed: January 21,2003
Attorney Docket No. 438P1028

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

This is a decision on the electronic petition, filed March 31,2009 ,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 31,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,679,517	2004-01-20	10/223,735	2003-01-21	438P1028

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	/George R. McGuire/	Date (YYYY-MM-DD)	2009-03-31
Name	George R. McGuire	Registration Number	36603

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

CHARLES E. BAXLEY
HART, BAXLEY, DANIELS & HOLTON
90 JOHN STREET, THIRD FLOOR
NEW YORK, NY 10038

COPY MAILED

DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Ralf Geske :
Application No. 10/223,738 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No.13063 B :

This is a decision on the papers styled, "Petition To Commissioner Pursuant To 37 CFR 1.181, 1.182 and 1.183," filed on November 17, 2003, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 20, 2003, including Figure 3 as described in the specification.

The application was filed on August 20, 2002. However, on October 18, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, but Figure 3 as described in the specification appears to have been omitted.

In response, on October 29, 2002 and January 10, 2003, petitioner attempted to correct the discrepancy, however the correspondence was erroneously forwarded to and considered by OIPE, rather than the proper forum, the Office of Petitions. On November 17, 2002, the instant petition and copies of all previous correspondence on the matter including a set of the originally filed drawings (which include figure 3) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of four (4) sheets of drawings on August 20, 2002. The four (4) sheets of drawings contain Figures 1-4. A review of the application file indicates the presence of only three (3) sheets of drawings originally filed on August 20, 2002, with the sheet containing Figure 3 missing. It is assumed that

missing sheet of drawings containing Figure 3 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on May 13, 2003 will be refunded to deposit account no. 02-1435.

This application will be returned to OIPE for processing with a filing date of August 20, 2002 and issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Ralf Geske :
Application No. 10/223,738 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No.13063 B :

This is a decision on the petition under 37 CFR 1.182, filed on January 12, 2004.

The petition is granted.

Petitioner requests the correction of a typographical error in the "Decision On Petition," mailed December 11, 2003. A corrected "Decision On Petition," will be rendered and made of record.

The petition fee is not required.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JUN 07 2004
OFFICE OF PETITIONS

In re Application of :
Ralf Geske :
Application No. 10/223,738 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No.13063 B :

This is a decision on the papers styled, "Petition To Commissioner Pursuant To 37 CFR 1.181, 1.182 and 1.183," filed on November 17, 2003, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 20, 2002, including Figure 3 as described in the specification. The "Decision On Petition," mailed December 11, 2003, is hereby vacated and replaced by the instant decision.

The application was filed on August 20, 2002. However, on October 18, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, but Figure 3 as described in the specification appears to have been omitted.

In response, on October 29, 2002 and January 10, 2003, petitioner attempted to correct the discrepancy, however the correspondence was erroneously forwarded to and considered by OIPE, rather than the proper forum, the Office of Petitions. On November 17, 2002, the instant petition and copies of all previous correspondence on the matter including a set of the originally filed drawings (which include figure 3) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of four (4) sheets of drawings on August 20, 2002. The four (4) sheets of drawings contain Figures 1-4. A review of the application file indicates the presence of only three (3) sheets of drawings originally filed on August 20, 2002, with the sheet containing Figure 3 missing. It is assumed that missing sheet of drawings containing Figure 3 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on May 13, 2003 has been refunded to deposit account no. 02-1435.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.: 06-06

Paper No: __

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Kristensen, et al. : DECISION
Application No.: 10/223,739 :
Filing Date: 23 August, 2002 :
Attorney Docket No. 6323.200-US :

This is a decision on the petition filed on 12 November, 2004, and resubmitted on 9 February, 2005, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181is **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 or alternatively 1.137(b)."

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply to a non-final Office action mailed on 13 April, 2004, to Petitioner's address at Suite 6400, 405 Lexington Avenue, New York, New York 10174-6401–however, there is no reply, due absent an extension of time on or before 13 July, 2004–a copy of the 13 April, 2004, non-final Office action is enclosed and in an effort to and showing of promptly advancing prosecution Petitioner should file the reply to that Office action with any further petition herein;

- the application went abandoned by operation of law after midnight 13 July , 2004;

- the Office mailed the Notice of Abandonment on 4 November, 2004;

- on 12 November, 2004, Petitioner filed the instant petition with averments that Notice previously had been provided to the Office as to change of address, however, the timing and content of that Notice is not clear, and should Petitioner wish to re-advance that argument sufficient documentation in support (copies of transmitted documents bearing certificates of transmission and receipt cards/FAXes, etc.) should be enclosed therewith, along with a reply to the enclosed 13 April,2004, non-final Office action–alternatively, Petitioner should petition to revive the application under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

[1] 35 U.S.C. §133 provides:

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

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

petition.[2]

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Further, 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

---

[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.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Thus, as of this writing Petitioner appears not to have satisfied the showing requirements described above in light of the frequency with which Petitioner seems not to receive Office actions in this matter.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

A copy of the non-final Office action mailed on 13 April, 2004, s enclosed, and, in an effort to promptly advance prosecution, Petitioner should include a reply thereto with any further petition filed herein.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[8]

Petitioner may wish to file such 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:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[9] 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 .)

[10] 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

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

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

Encl: Copy of the 13 April, 2004, Non-Final Office Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/223,739	08/23/2002	Lars Thougaard Kristensen	6323.200-US	3674

7590 04/13/2004

Reza Green, Esq.
Novo Nordisk of North America, Inc.
Suite 6400
405 Lexington Avenue
New York, NY 10174-6401

EXAMINER	
THOMPSON, KATHRYN L	

ART UNIT	PAPER NUMBER
3763	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Dibiasi et al, Harris, and Moberg et al do not disclose expressly wherein the cylindrical wall has an inside diameter in the range of 7.45 mm to 9.31 mm, wherein the the stroke zone has a length of approximately 34 mm and 23 mm and a volume of approximately 1.5 ml, wherein the total length of the cartridge is approximately 52 mm and 44 mm, and wherein the inside diameter of the cartridge is in the range 9.19 to 9.31 mm. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to make a glass cartridge with the aforementioned dimensions because Applicant has not disclosed that making the aforementioned dimensions provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the dimensions of Dibiasi et al, Harris, and Moberg et al because both sets of dimensions perform the same function. Therefore, it would have been an obvious matter of design choice to modify Dibiasi et al, Harris, and Moberg et al to obtain the invention as specified in Claims 1-7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn L Thompson whose telephone number is 703-305-3286. The examiner can normally be reached on 8:30 AM - 6:00 PM: 1st Friday Off.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dibiasi et al (US 6,146,361) and Harris (US 5,334162) in view of Moberg et al (US 6,485465). Dibiasi et al (Figure 2) and Harris (Figures 3-5) disclose a glass cartridge for a precision insulin delivery system, comprising a vessel containing liquid insulin, a flange on the distal end closed by a flexible membrane sealingly secured against the flange, and a piston. Dibiasi et al and Harris do not disclose wherein the liquid insulin is a U200 insulin and wherein the cylindrical wall has an inside diameter in the range of 7.45 mm to 9.31 mm, wherein the the stroke zone has a length of approximately 34 mm and 23 mm and a volume of approximately 1.5 ml, wherein the total length of the cartridge is approximately 52 mm and 44 mm, and wherein the inside diameter of the cartridge is in the range 9.19 to 9.31 mm. Moberg et al discloses wherein the liquid insulin is a U200 insulin. It would have been obvious to one with ordinary skill in the art to use the teachings of Moberg et al to modify the inventions of Dibiasi et al and Harris and use a U200 liquid insulin since a U200 insulin is notoriously well known in the art as a type of liquid insulin used for delivery to a patient.

Office Action Summary	Application No.	Applicant(s)	
	10/223,739	KRISTENSEN ET AL.	
	Examiner	Art Unit	
	Kathryn L Thompson	3763	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 August 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLT

Primary Patent Examiner
AU 3763

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE IAP84
SEP 11 2006
PATENT & TRADEMARK OFFICE

JJGJR.: 06-06

Paper No: __

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED
JUN 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Kristensen, et al.	:	DECISION
Application No.: 10/223,739	:	
Filing Date: 23 August, 2002	:	
Attorney Docket No. 6323.200-US	:	

This is a decision on the petition filed on 12 November, 2004, and resubmitted on 9 February, 2005, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181is **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 or alternatively 1.137(b)."

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply to a non-final Office action mailed on 13 April, 2004, to Petitioner's address at Suite 6400, 405 Lexington Avenue, New York, New York 10174-6401–however, there is no reply, due absent an extension of time on or before 13 July, 2004–a copy of the 13 April, 2004, non-final Office action is enclosed and in an effort to and showing of promptly advancing prosecution Petitioner should file the reply to that Office action with any further petition herein;

- the application went abandoned by operation of law after midnight 13 July , 2004;

- the Office mailed the Notice of Abandonment on 4 November, 2004;

- on 12 November, 2004, Petitioner filed the instant petition with averments that Notice previously had been provided to the Office as to change of address, however, the timing and content of that Notice is not clear, and should Petitioner wish to re-advance that argument sufficient documentation in support (copies of transmitted documents bearing certificates of transmission and receipt cards/FAXes, etc.) should be enclosed therewith, along with a reply to the enclosed 13 April,2004, non-final Office action–alternatively, Petitioner should petition to revive the application under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

[1] 35 U.S.C. §133 provides:

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

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

petition.[2]

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

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

Allegations as to the Request to Withdraw the Holding of Abandonment

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

Further, 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

---

[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.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Thus, as of this writing Petitioner appears not to have satisfied the showing requirements described above in light of the frequency with which Petitioner seems not to receive Office actions in this matter.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

A copy of the non-final Office action mailed on 13 April, 2004, s enclosed, and, in an effort to promptly advance prosecution, Petitioner should include a reply thereto with any further petition filed herein.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[8]

Petitioner may wish to file such 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:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[9] 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 .)

[10] 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

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

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

Encl: Copy of the 13 April, 2004, Non-Final Office Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Kristensen et al.	:	
Application No. 10/223,739	:	ON PETITION
Filed: August 23, 2002	:	
Attorney Docket No. 6323.200-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

DATE 6/27/07 APPLICATION NUMBER 10223739

DOC CODE WFEE DOC DATE 9/29/06

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

RECEIVED
CENTRAL FAX CENTER
SEP 29 2006

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): 6323.200-US

First named inventor: Kristensen et al.

Application No.: 10/223,739

Art Unit: 3763

Filed: August 23, 2002

Examiner: Thompson, Kathryn L.

Title: Cartridge For Liquid Insulin

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 Amendment (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.

09/29/2006 141447 10223739
BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT PROSECUTION SUPERVISOR
PIPER RUDNICK LLP
1200 NINETEENTH STREET NW
WASHINGTON DC 20036-2430

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
David McCray
Application No. 10/223,752
Filed: August 19, 2002
Attorney Docket No. 3843-003-27 CONT

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

This is a decision on the petition, filed November 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 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 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE
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PATENT PROSECUTION SUPERVISOR
PIPER RUDNICK LLP
1200 NINETEENTH STREET NW
WASHINGTON DC 20036-2430

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of :
David McCray :
Application No. 10/223,752 : DECISION GRANTING PETITION
Filed: August 19, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3843-003-27 CONT :

This is a decision on the petition, filed November 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 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 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).*

MAR 16 2005
PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL
FY 2005

Docket No.	3843-003-27 CONT
Serial No.	10/223,752
Filing Date	August 19, 2002
Inventor(s)	David McCRAY PEELE
Group Art Unit	1731
Examiner	Dionne A. Walls

TOTAL AMOUNT OF PAYMENT $70.00

1. ☐ Applicant claims small entity status.

■ Charge any **UNDERPAYMENT** or credit any **OVERPAYMENT** in the indicated fees to Deposit Account No. 50-1442.

☐ Charge the indicated fees to Deposit Account No. 50-1442.

2. ■ Check enclosed.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	
Code	Fee $	Code	Fee $		Fee Paid
1011	300	2011	150	Utility Fling Fee	
1012	200	2012	100	Design Filing Fee	
1013	200	2013	100	Plant Filing Fee	
1014	300	2014	150	Reissue Filing Fee	
1005	200	2005	100	Provisional Filing Fee	
1111	500	2111	250	Utility Search Fees	
1311	200	2311	100	Utility Examination Fees	
				SUBTOTAL	$0.00

2. EXTRA CLAIM FEES

tot. claims		-	20*	=	0	x	$50	=	0
ind. claims		-	3*	=	0	x	$200	=	0
☐	Multiple Dependent Claims						$360	=	
								SUBTOTAL	0

3. APPLICATION SIZE FEES

Total # of Sheets		# of Extra Sheets
	- 100 =	0
# of each additional 50 sheets or fraction thereof (round up)	Fee	Total Fee Due
	x $250 =	0

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	
Fee Code	Fee ($)	Fee Code	Fee ($)		Fee Paid
1051	130	2051	65	Surcharge-late filing fee or oath	
1053	130	1053	130	Non-English Specification	
1251	120	2251	60	1-mo. ext. of time	
1252	450	2252	225	2-mo. ext. of time	
1253	1020	2253	510	3-mo. ext. of time	
1254	1590	2254	795	4-mo. ext. of time	
1255	2160	2255	1080	5-mo. ext. of time	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Appeal Brief	
1403	1000	2403	500	Request for Oral	
1501	1400	2501	700	Utility/Reissue Issue	70.00
1504	300	1504	300	Publication Fee	
8001	3	8001	3	Advance Copy of Patent	
1806	180	1806	180	IDS Submission	
8021	40	8021	40	Assignment Recordation	
1801	790	2801	395	For Filing RCE	
1814	130	2814	65	Terminal Disclaimer	
Other:					
				SUBTOTAL	70

Name	Steven B. Kelber	Registration No.	30,073		
Signature		Date	3/16/05	Telephone	202-861-3900
Name		Registration No.			

Rev. 01/05

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

JUN 18 2004

Paper No. 6

In re Application of
Wen Chen Chang
Application No. 10/233,782
Filed: August 15, 2002
Attorney Docket No. 3739SF

: DECISION ON PETITION

The papers filed on April 29, 2004 and June 2, 2004 are construed as being a petition under 37 CFR 1.181 to withdraw the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated July 29, 2003. There is no fee for the petition.

The petition is granted.

It appears that petitioner filed a reply to the Office letter in question by facsimile transmission on August 21, 2003, as indicated by the copy of the reply attached to the above mentioned papers. It is noted that the reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission. Pursuant to 37 CFR 1.8(b), this evidence is sufficient to establish that the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on August 21, 2003, and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Wen Chen Chang
P.O. Box 63-298
Taichung, Taiwan 406

VIA AIR MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Viswa Sharma	:	DECISION ON REQUEST
Application No. 10/223,832	:	TO WITHDRAW FROM
Filed: August 19, 2002	:	RECORD
Attorney Docket No. 021636-000100US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on February 3, 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 CFR § 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 December 7, 2005. Also, no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Brad D. Pederson, Patterson, Thuente, Skaar & Christensen
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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

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

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OFFICE OF PETITIONS

In re Application of
Geppert, Harper, Harrison, and Prosser
Application No. 10/223,837
Filed: August 20, 2002
Attorney Docket No. PG4564US
For: COMPOUNDS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47 filed March 12, 2003. The petition will be treated under 37 CFR 1.47(a).

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on August 20, 2002, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on September 12, 2002, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

On March 12, 2003, petitioner filed the instant petition and obtained a four (4) month extension of time to file a reply. In support of the petition, petitioner filed a declaration executed by all named inventors, except inventor Geppart and other documentary evidence.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

Petitioner will note that if at least one inventor is available to execute the declaration, the petition must be filed under 37 CFR 1.47(a), not (b). The requirements of 37 CFR 1.47(a) do not include a statement relative to the preservation of the rights of 37 CFR 1.47 applicant, nor does 37 CFR 1.47(a) require proof of proprietary interest. The documentation provided relative to preservation of rights and proprietary interest will be disregarded relative to the disposition of the petition.

The instant petition lacks item (2) as set forth above.

As to item (2), the declaration filed contains a signature for inventor Geppart and it is unclear whose signature it is. Section 409.03(a) of the *Manual of Patent Examining Procedure* (MPEP)provides, in pertinent part, that:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 . . . (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors wit the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Even if the unknown signature is to be accepted as a proper way to have the available inventors sign on their own behalves and on behalf of the nonsigning inventor, petitioner did not provide any pertinent information, such as his full name, citizenship, address, and title or position. See MPEP 409.03(b). As this is a petition under 37 CFR 1.47(a), not 37 CFR 1.47(b), it is suggested that petitioner file a renewed petition along with a declaration executed by all available inventors with the signature block for the non-signing inventor left blank.

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

By mail[1]: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

Telephone inquiries should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1]Effective May 1, 2003, the mailing address for the Office of Petitions will be as follows: Mail Stop Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

David L. Levy
Corporate Intellectual Property
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OFFICE OF PETITIONS

In re Application of
Geppert, Harper, Harrison, and Prosser
Application No.: 10/223,837
Filed: August 20, 2002
Attorney Docket No: PG4564US
For: COMPOUNDS

DECISION ACCORDING STATUS UNDER RULE 47(a)

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

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on September 12, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). In response thereto, a petition under 37 CFR 1.47(a) was filed on March 12, 2003, but was dismissed by a decision mailed April 4, 2003. The instant renewed petition was then filed on July 29, 2003.

In response thereto, petitioner filed the instant petition along with a declaration executed by all the available join inventors, and evidentiary documents showing that efforts were made to locate inventor Geppert, but he is unavailable.

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.

Deposit account 07-1392 will be charged $410.00 for the extension of time within the second month.

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

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Martin Geppert
42 Abbottswood Gardens
Clayhill, Ilford
Essex IG5 0B UK

AIRMAIL

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Geppert, Harper, Harrison, and Prosser
Application No. 10/223,837
Filed: August 20, 2002
Attorney Docket Number: PG4564US
For: COMPOUNDS

LETTER

Dear Mr. Geppert:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

David L. Levy
Corporate Intellectual Property
GLAXOSMITHKLINE
Five Moore Drive, PO Box 13398
Research Triangle Park, North Carolina 27709-3398

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

Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Amol B. Adgaonkar	: DECISION ON REQUEST FOR
Patent Number	: 7620561	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/223,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1477** 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.

Bristol-Myers SquibbCompany
Patent Department
P. O. Box 4000
Princeton, NJ 08543-4000

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
J. Zhang, et al. :
Application No. 10/223,860 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. PH-7332 :

This is in response to the petition under 37 CFR 1.47(a), filed May 14, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

As provided in 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 Publishing Division to be processed into a patent.

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

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for 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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KEVIN L. RUSSELL
SUITE 1600
601 SW SECOND AVE.
PORTLAND, OR 97204-3157

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Smith, et al. :
Application No. 10/223,863 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. KLR:djs 1016.067 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed August 23, 2004. Accordingly, this application became abandoned on November 24, 2004. A Notice of Abandonment was mailed on March 15, 2005.

The file is being forwarded to Technology Center 2800 for review of the amendment and terminal disclaimer, filed April 28, 2005, *in due course*.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77057

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Nelson, et al :
Application No. 10/223,864 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. Jeri's Seafood-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed September 22, 2004. Accordingly, this application became abandoned on December 23, 2004. A Notice of Abandonment was mailed on April 22, 2005.

The file is being forwarded to Technology Center 1700 for review of the amendment, filed May 18, 2005.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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Paper No. 5

Richard P. Berg
LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles, CA 90036-5679

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kubena et al.
Application No. 10/223,874
Filed: August 19, 2002
Attorney Docket No. B-3960DIV 620023-4

This is a decision on the petition filed March 26, 2003, to accord the above-identified application a filing date of August 19, 2002, instead of August 20, 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 19, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of August 19, 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 25 2005

OFFICE OF PETITIONS

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Application of :
Volker Schellenberger et al :
Application No. 10/223,893 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 5070-001-04 :

This is a decision on the petition, filed April 15, 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 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 (571) 272-3208.

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

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

[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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Michael G. Crilly, Esquire
104 South York Road
Hatboro PA 19040

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MAR 15 2005

OFFICE OF PETITIONS

In re Patent of
Rattner et al.
Application No. 10/223,901
Filing Date: August 20, 2002
Attorney Docket No. AZ-2002-01-NP

Grant of Request Under 37 CFR 3.81

This is a decision on the petition filed October 18, 2003, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The request under 37 CFR 3.81 is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 120(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted. The assignee name and address listed on the Issue Fee Transmittal form will be corrected to indicate the assignee is Solebury Technical, Incorporated with an address of Solebury, PA.

A review of internal computer records indicates the Office *may* be able to correct the name of the assignee prior to the publication of the patent. The Office of Petitions will take steps to attempt to have the information changed on the patent. However, depending on the publication stage, the Office of Publication may not be able to make the requested change on the patent. If the patent issues with the wrong assignee name, petitioner should submit a copy of the instant decision, a request for a certificate of correction, and a statement that the $100 fee was previously submitted, to Certificates of Correction Branch.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Albert E. Ortega et al. :
Application No. 10/223,910 :
Filed: August 19, 2002 :
Attorney Docket Number: CRX-104CXC1 :
Title: NONWOVEN FABRICS WITH TWO OR MORE FILAMENT CROSS SECTIONS :

DECISION ON PETITIONS UNDER 37 C.F.R. §§1.78(a)(3) and 1.78(a(6)

This is a decision on the petitions under 37 CFR §§1.78(a)(3) and 1.78(a)(6), filed January 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications 09/894,580 (filed on June 28, 2001), 09/397,330, filed on September 14, 1999, 10/227,614, filed on October 21, 2002, and provisional application number 60/100,192, filed on September 14, 1998, as 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) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

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

Petitioner has set forth that the present application is a continuation-in-part of previous application number 09/894,580. However, Petitioner has also set forth that the present application, which was filed on August 19, 2002, is also a continuation-in-part of **subsequently filed** application number 10/277,614, which was not filed until October 21, 2002. Obviously, an application cannot claim priority to an application which is not a prior-filed application. For this reason, the Office cannot accept the relationship between these two applications which Petitioner has set forth.

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

Any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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

In passing, it is noted that the Application Data Sheet (ADS) contains a typographical error in the application number; namely the ADS references 09/297,330 rather than 09/397,330.

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

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

3 (571) 273-8300 - please note this is a central facsimile number. 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

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Paper No. None

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

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Albert E. Ortega et al.	:	
Application No. 10/223,910	:	DECISION ON RENEWED PETITION
Filed: August 19, 2002	:	UNDER 37 C.F.R. §1.78(A)(3)
Attorney Docket Number: CRX-104CXC1	:	AND §1.78(A)(6)
Title: NONWOVEN FABRICS WITH TWO OR MORE FILAMENT CROSS SECTIONS	:	

This is a decision on the renewed petition under 37 C.F.R. §§1.78(a)(3) and (a)(6), filed December 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications, set forth in the amendment and the application data sheet (ADS) filed concurrently with the present petition.

The original petition was submitted on January 24, 2005 and was dismissed via the mailing of a decision on September 7, 2005.

The renewed petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 C.F.R §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 C.F.R §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 C.F.R §1.78(a)(5)(ii). Additionally, intermediate application 09/397,330, filed September 14, 1999, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/100,192, which was filed on May 14, 1998, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in an ADS, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains 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 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application

to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 37 C.F.R. §§1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 C.F.R 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 applications, accompanies this decision on petition. Technology Center Art Unit 1771 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this renewed petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 119(e)to the prior-filed applications.

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/223,910	08/19/2002	1771	1014	10139DR*L		28	2

CONFIRMATION NO. 8372

CORRECTED FILING RECEIPT

OC000000019887396

27752
THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

Date Mailed: 08/03/2006

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

Applicant(s)

Albert E. Ortega, Pensacola, FL;
R. Wayne Thomley, Pensacola, FL;
Jan Mackey, Gulf Breeze, FL;

Power of Attorney: The patent practitioners associated with Customer Number **27752**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/313,200 08/17/2001
and claims benefit of 60/331,812 11/20/2001
and is a CIP of 09/894,580 06/28/2001 PAT 7,060,149
which is a DIV of 09/397,330 09/14/1999 ABN
which claims benefit of 60/100,192 09/14/1998

Foreign Applications

If Required, Foreign Filing License Granted: 09/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/223,910

Projected Publication Date: 11/09/2006

Non-Publication Request: No

Early Publication Request: No

Title

Nonwoven fabrics with two or more filament cross sections

Preliminary Class

442

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050804

DATE : August 4, 2005

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction on Patent No.: 6892652

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** All changes apply.

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

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

Comments:

SPE: Lanna Mai **Art Unit** 3637

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

JUL 23 2003

UR
PAPER NO. 5

In re Application of
Jimmie D. Miller
Serial No. 10/223,919
Filed: August 20, 2002
For: METHOD AND APPARATUS FOR STERILIZING MAIL

DECISION ON PETITION UNDER M.P.E.P. 708.02(XI)

This is in response to the petition filed August 20, 2002, requesting that the above-identified application be granted Special Status under Sections 37 CFR 102(c) and 708.02 (XI) of the MPEP. The petition fee under 37 CFR 1.17(h) has been paid.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Harshaw Research Incorporated
P.O. Box 418
Ottawa, KS 66067

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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Conley Rose, P.C.
David A. Rose
P.O. Box 3267
Houston, TX 77253-3267

COPY MAILED

JUL 23 2008

In re Application of	:	
Ruben Gomez	:	
Application No. 10/224,012	:	DECISION ON PETITION
Filed: August 20, 2002	:	TO WITHDRAW
Attorney Docket No. 1976-00200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 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 David A. Rose 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 Ruben Gomez at the address indicated below.

There is an outstanding Notice of Allowance and Fee(s) Due mailed July 15, 2008 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ruben Gomez and Ms. Sally Herrera**
4118 Robertson
Houston, TX 77009

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
10/224,012	08/20/2002	Ruben Gomez	1976-00200

CONFIRMATION NO. 2484

POWER OF ATTORNEY NOTICE

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

OC000000031106258

Date Mailed: 07/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/16/2006.

- 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.

/tswilliams/

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

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)
6,733,153	2004-05-11	10/224,036	2002-08-20	744.711

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	/Lisa A. Karczewski/	Date (YYYY-MM-DD)	2008-06-30
Name	Lisa A. Karczewski	Registration Number	53096

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. 6733153
Issue Date: May 11,2004
Application No. 10224036
Filed: August 20,2002
Attorney Docket No. 744.711

:

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

:

This is a decision on the electronic petition, filed June 30,2008 ,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 June 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 26 2008

In re Application of	:	
Tom A. Saul	:	
Application No. 10/224,046	:	DECISION ON PETITION
Filed: August 19, 2002	:	TO WITHDRAW
Attorney Docket No. 018050-001000US	:	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 14, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to TOWNSEND and TOWNSEND and CREW LLP has been revoked by the assignee of the patent application on January 6, 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 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
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

JUN 10 2003

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVIN, CA 92618

In re Application of	:	
Alan J. Lang	:	
Application No: 10/224,088	:	PETITION DECISION
Filed: August 20, 2002	:	
Title: Accommodating Multifocal Intraocular Lens	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The application is being withdrawn to permit reopening of prosecution due unpatentability over one or more claims.

PTO records reveal that the issue fee has not been paid. If the 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.

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

COPY MAILED

DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Takashige Iwamura, et al. :
Application No.: 10/224,091 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No.: 16869S-057700US :

This is a decision on the petition, filed December 20, 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 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 2157 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Khosravi et al. :
Application No. 10/224,094 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 274/300 :

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

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

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

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

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/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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MICHAEL F SCALISE
WILSON GREATBATCH TECHNOLOGIES INC
10,000 WEHRLE DR
CLARENCE NY 14031

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MAR 2 1 2005

OFFICE OF PETITIONS

In re	:
Miller, et al.	: DECISION ON APPLICATION
Application No. 10/224,117	: FOR PATENT TERM ADJUSTMENT
Filed: August 20, 2002	: AND
Patent No. 6,828,059	: NOTICE OF INTENT TO ISSUE
Issued: December 7, 2004	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)", filed February 17, 2005 (Certificate of Mailing dated February 7, 2005). Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from ninety-one (91) days to eight-nine (89) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

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 **one hundred eighty (180) days.**

On June 18, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was one hundred thirty-nine (139) days. On December 7, 2004, the above-identified application matured into U.S. Patent No. 6,828,059. The patent issued with a Patent Term Adjustment of ninety-one (91) days.

Patentees state that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of ninety-one (91) days based on an adjustment for PTO delay of one hundred forty-four (144) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and forty-three (43) days pursuant to 35 U.S.C. 154(b)(1)(B)(iii) and 37 C.F.R. §1.703(a)(6), reduced by applicants' delays of five (5) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(8), and ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(c)(10). The PTO delays of 144 and 43 have been reviewed and found to be correct. The adjustments of 91 and 5 days are at issue.

The adjustment of ninety-one (91) days for the filing of a "LETTER REGARDING PATENT TERM ADJUSTMENT PERIOD" has been found to be incorrect. Pursuant to 37 C.F.R. §1.704(e), the submission of an application for patent term adjustment is not considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, Applicants should have incurred no delay for this filing.

In addition, the adjustment of five (5) days has been found to be incorrect. As pointed out by patentees, the adjustment should have been seven (7) days. A review of the application file reveals that applicants filed an amendment on April 20, 2004, not April 22, 2004. Accordingly, when applicants filed a supplemental amendment on April 27, 2004, applicants should have been assessed delay of seven (7) days pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322 is appropriate. The determination of patent term adjustment is one hundred eighty (180) days (187 (144 + 43) days of PTO delay, reduced by 7 days of applicant delay).

The $200 fee set forth in 37 C.F.R. 1.18(e) has not been charged.

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 **one hundred eighty (180) days** subject to any disclaimers.

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

/Karin Ferriter/

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

Enclosure: Copy of Draft Certificate of Correction

cc: Hodgson Russ LLP
One M&T Plaza
Suite 2000
Buffalo, New York 14203-2391

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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BRADLEY ARANT ROSE & WHITE, LLP
INTELLECTUAL PROPERTY DEPARTMENT – NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Barnes et al.	:	
Application No. 10/224,134	:	ON PETITION
Filed: August 20, 2002	:	
Attorney Docket No. P65366US00GP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 9, 2004, 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 May 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 6, 2004.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/224,170	08/19/2002	Rex E. Lowther	SE-1791-TD	2393

32095 7590 09/26/2003

INTERSIL CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
2401 PALM BAY ROAD NE
PALM BAY, FL 32905

EXAMINER	
DINH, PAUL	

ART UNIT	PAPER NUMBER
2825	

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Scott V. Lundberg
Fogg & Associates, LLC
P.O. Box 581339
Minneapolis, MN 55458-1339

Appl No.: 10/224170
Inv: Lowther et al.
Filed: August 19, 2002
For: Numerically Modeling Inductive Circuit Elements

DECISION ON PETITION UNDER *37 CFR 1.48*

This is a decision on the applicant's "Petition to Correct Inventorship" filed under 37 CFR 1.48 on January 2, 2003. The applicant requests that the name of Yiqun Lin be added to the inventor originally filed, namely, Rex E. Lowther.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48, namely:

A request to correct the inventorship;

A Statement from inventor Lin that the error of inventorship occurred without deceptive intent on his part;

An oath or declaration by the actual inventors;

A letter indicating written consent by the assignee; and,

A check for the appropriate processing fee;

the petition is hereby **granted**.

The application is being forwarded to Legal Instrument Examiner for appropriate entry into the file naming only the actual inventor or inventors whereupon it will be sent to the examiner for examination on the merits.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

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ALEXANDRIA, VA 22313-1450
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JOAN N. DREW
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Jason Tingley :
Application No. 10/224,171 : DECISION ON REQUEST
Filed: August 20, 2002 : TO WITHDRAW
Attorney Docket No. 28331.04001 : 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 10, 2006.

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

A review of the file record indicates that the power of attorney to Joan N. Drew and all the other attorneys/agents of record associated with Customer No. 24024 was revoked by the assignee of the patent application on February 23, 2006. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

There is no outstanding Office action that requires a 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: MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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)
6784803	2004-08-31	10224181	2002-08-20	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Catherine A. Hypke/	Date (YYYY-MM-DD)	2009-02-23
Name	Catherine A Hypke, Pres Seatbelt Safety First LLC		
Enter Reel and Frame Number		Remove	
Reel Number	013209	Frame Number	0210
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6784803
Issue Date: August 31,2004
Application No. 10224181
Filed: August 20,2002
Attorney Docket No. 70759-001

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

This is a decision on the electronic petition, filed February 23,2009 ,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 23,2009 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 11, 2006

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/224183 Patent No.: 6,916,,874

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 1713

SPE **Art Unit**

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

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Ryuichi Tsuji :
Application No. 10/224,188 :
Filed: August 20, 2002 :
Attorney Docket No: 9319M-201COA : ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181, filed February 16, 2006, to withdraw the holding of abandonment.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Drawing Inconsistency With Specification ("Notice"), mailed July 28, 2005. The Notice set a one (1) month period for reply. No response having been received, the application became abandoned on August 29, 2005. A Notice of Abandonment was mailed January 30, 2006.

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Publishing Division for re-mailing of the Notice of Allowance. A copy of the Notice is also enclosed.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Notice of Drawing Inconsistency With Specification

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/224,188	08/20/2002	Ryuichi Tsuji	9319M-201COA	2309

27572 7590 07/28/2005

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

EXAMINER	
STEWART JR, CHARLES W	

ART UNIT	PAPER NUMBER
2853	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION

The drawings filed 8/20/02 have been received. However, an inconsistency exists between the drawings and the Brief Description of the Drawings in the specification.

Figures 18 are listed in the Brief Description of the Drawings in the specification but not contained in the Drawings.

Figures _____ are contained in the Drawings but not listed in the Brief Description of the Drawings in the specification.

Applicant is required to correct the above-noted inconsistency within a time period of **ONE MONTH or THIRTY (30) DAYS, whichever is longer,** from the mailing date of this Notice, or within the time remaining in the time period set forth in the Notice of Allowability (Form PTOL-37) to file corrected drawings, whichever is longer. **NO EXTENSION OF THIS TIME PERIOD MAY BE GRANTED UNDER EITHER 37 CFR 1.136 (a) OR (b)**

Failure to correct the above noted inconsistency will result in **abandonment** of the application.

The file will be held in the Publishing Division to await the correction of the inconsistency.

Return Corrected Drawings/Specification to:
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

Office of Patent Publication/Publishing Division
Customer Service: 703-308-6789
1-888-786-0101

FORM PTO-1631 (REV. 10-03)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date: 06/25/09

Patent No. : 7389412 B2
Ser. No. : 10/224,226
Inventor(s) : SHARMA, MUKESH
Issued : 06/17/08
Title : **SYSTEM AND METHOD FOR SECURE NETWORK ROAMING**
Docket No. : **113659-143527**

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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OCT 17 2003

Paper No. 7

In re Application of :
John McNair Pease : DECISION ON PETITION
Application No. 10/224,244 :
Filed: August 19, 2002 :
Attorney Docket No. DHN/334/PC/US

This is a decision on the petition filed on September 8, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office letter dated January 14, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on February 19, 2003. In addition, the reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated February 10, 2003, within the time for reply set by the Office letter in question. From this evidence, it becomes clear that this application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on February 19, 2003, certificate of mailing date February 10, 2003

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Alix, Yale & Ristas, LLP
Suite 1400
750 Main Street
Hartford, CT 06103-2721

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX, AZ 85018

COPY MAILED

SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Rudy Emrick et al :
Application No. 10/224,252 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. CR01-043 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 September 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 27, 2003.

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

The application is being forwarded to Technology Center AU 2819 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

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OFFICE OF PETITIONS

In re Application of :
Gerhard Hocke et al :
Application No. 10/224,258 : LETTER
Filed: August 20, 2002 :
Attorney Docket No. M0-7149/LeA 35,638 :

This is in response to the paper filed November 26, 2004 under 37 CFR 1.28(b) stating that status of this patent application has changed from that of a small entity to other than that of a small entity.

However, a review of the application file fails to indicate that small entity status was ever requested or accorded. Further, a review of the fees paid in this case indicates that all fees were paid at the large entity rate. Therefore, the request is unnecessary and involves a moot issue.

Receipt is acknowledged of the request for a one month extension of time and fee of $110; Response to Office action mailed September 22, 2004; and Supplemental Information Disclosure Statement and $180 fee therefor, all of which were received on November 26, 2004.

This matter is being referred to Technology Center AU 3663 for appropriate action as the nature of the case requires.

Inquiries concerning this letter may be directed to the undersigned at (571) 272-3218. Matters concerning the status of the application or examining procedures should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 9

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

COPY MAILED

OCT 17 2003

OFFICE OF PETITIONS

In re Application of :
KEITH G. LURIE :
Application No. 10/224,263 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. 016354-000115US :

This is a petition under 37 CFR 1.10(c), filed August 13, 2003, requesting that the above-identified application be accorded a filing date of August 19, 2002.

Petitioner alleges that the application was deposited in Express Mail service on August 19, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL889371157US. The "date-in" indicated on the Express Mail label is August 19, 2002. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of August 19, 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**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination **for correction of the filing date to August 19, 2002**, using Figures 19-54C, and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center 1700 for review of the preliminary amendment and a determination of whether Figures 1-18 contain new matter.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/9/2008**

TO SPE OF : ART UNIT **1647 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/224,268** Patent No.: **7,166,574**

Attn: Sandra Wigert

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to enter changes to <400> Seq.: 2, as requested in COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

/Manjunath Rao/, SPE AU 1647

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www.uspto.gov

DEC 28 2005

NEEDLE & ROSENBERG, PC
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of	:
Magnus Pfahl et al	:
Serial No.: 10/224,288	: PETITION DECISION
Filed: August 19, 2002	:
Attorney Docket No.: 13099.0017U2	:

This is in response to the petition under 37 CFR 1.144, filed October 11, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on August 19, 2002, and contained claims 1-26. In a first Office action, mailed March 11, 2005, the examiner set forth a restriction requirement, dividing the claims into 13 groups, as follows:

Group I, claim1, compounds where Ar_1 is aryl and Ar_2 is aryl;
Group II, claim 1, compounds where Ar_1 is aryl and Ar_2 is heteroaryl;
Group III, claim 1, compounds where Ar_1 is heteroaryl and Ar_2 is aryl;
Group IV, claim 1, compounds where Ar_1 is heteroaryl and Ar_2 is heteroaryl;
Group V, claim 18, a process for preparing;
Group VI, claims 23-24, method of modulating where Ar_1 is aryl and Ar_2 is aryl;
Group VII, claims 25-26, method of treating where Ar_1 is Aryl and Ar_2 is aryl;
Group VIII, claims 23-24, method of modulating where Ar_1 is aryl and Ar_2 is heteroaryl;
Group IX, claims 25-26, method of treating where Ar_1 is aryl and Ar_2 is heteroaryl;
Group X, claims 23-24, methods of modulating where Ar_1 is heteroaryl and Ar_2 is aryl;
Group XI, claims 25-26, method of treating where Ar_1 is heteroaryl and Ar_2 is aryl;
Group XII, claims 23-24, methods of modulating where Ar_1 is heteroaryl and Ar_2 is heteroaryl;
Group XIII, claims 25-26, methods of treating where Ar_1 is heteroaryl and Ar_2 is heteroaryl.

Note – Groups I-IV relate to claims 1-17 and 19-22, not just claim 1, as set forth in the requirement, which is the only independent claim.

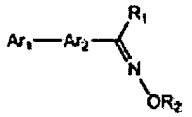
The examiner reasoned that Groups I-IV and V were related as product and process of making and Groups I-IV and VI-XIII were related as product and methods of use and were distinct and there was no coaction among them. Applicants replied on May 5, 2005, amending claims 1 and 17-18 and electing for prosecution Group I, with traverse. Applicants argued that the restriction was improper based on court decisions such as *In re Weber* and *In re Harnish* and that the structure possessed unity of invention as defined therein. Applicants also requested that the Office modify their assignment records. Applicants further elected the species of Example 20 in a telephone interview on June 8, 2005.

The examiner mailed an action on the merits to applicants on August 11, 2005, setting a three month shortened statutory period for reply, responding to applicants' traversal of the restriction requirement by noting that the differences in Ar_1 and Ar_2 and the structures created by them did not provide a structure common to all compounds and the structures therefor did not meet the unity of invention test cited in the court decisions. The requirement was then made Final. The examiner noted that process of making and method of treating claims commensurate in scope with the elected compound claims would also be examined upon allowance of a compound claim. Claims 1-17 and 21 were rejected under 35 U.S.C. 102(b) as anticipated by Bach et al or under 35 U.S.C. 103(a) as obvious over Bach et al. Claims 1-17 and 21 were also rejected under 35 U.S.C. 103(a) as obvious over Lee et al.

Applicants filed a reply on October 7, 2005, again traversing the restriction requirement and responding to each of the rejections of record. Applicants also filed this petition to withdraw the restriction requirement on October 11, 1005.

DISCUSSION

A review of the claims shows that claim 1 is directed to compounds having the following formula:



A review of the four variables shows that R_1 and R_2 are hydrogen or organic radicals of 12 carbons or less (or an amino group for R_1). Such radicals are fairly common and offer no definitive difference over prior art. Ar_1 and Ar_2, however, are aryl or heteroaryl radicals which may be substituted and may include additional ring systems or create a fused ring system. The examiner divided the compound claims into four separate groups depending on the values for Ar_1 and Ar_2 as to whether they are aryl or herteroaryl. (Note that claim 7 presents 7 different fused ring systems for Ar_1, both heteroaryl and non-heteroaryl, and claim 12 presents at least 3 heteroaryl ring systems for Ar_2.)

Claims 18-20 are directed to a process for making the compounds in general. Claims 21-22 are directed to a pharmaceutical composition of claim 1 are included with the compound claims. Claims 23-24 are directed to a method of modulating lipid metabolism and claims 25-26 are directed to treating type 2 diabetes.

The examiner has properly separated compound/composition claims from the method of making claims and the two methods of using claims based on different statutory class of invention. The examiner has also properly separated the three method type claims based on their different uses. The examiner also correctly indicated that upon a finding of allowability of product claims, method of making or using claims of commensurate scope would be rejoined and examined for compliance with all applicable statutes.

The examiner also provided proper reasons for the restriction requirement including burden on the Office to search and examine all possible inventions claimed.

Applicants argue that the restriction is improper in view of the decisions of *In re Weber* and *In re Haas* and others. The principle enunciated in these court decisions is that compounds having a substantial common core wherein the compounds differ only in the radicals attached to the common core and wherein the activity of the compound is provided by the core have unity of invention and should not be subject to restriction requirement. As noted above there is a common core here, but it consists of only a "-C=N-O-" core which likely does not provide the activity of the claimed compounds. All of the rest of the structure is variable. It is noted that two of the four variables are of a general nature, the R_1 and R_2. However the two aryl or herteroaryl variables, which in essence form the major portion of the compounds, vary significantly. That the examiner separated the compounds into four groups based on aryl/aryl, aryl/heteroaryl, heteroaryl/aryl and heteroaryl/heteroaryl combinations is reasonable as these do not have a common core or structure as shown by the specification and dependent claims. Within each group defined by the examiner election of species is also permitted with the guidelines of M.P.E.P. 803.02 to be followed. It appears that the examiner has done this.

Applicants also appear to argue that aryl and heteroaryl are sufficiently similar that they should be searchable together. As stated by the examiner as well as by applicable classifications of the various groups, such is not a valid assumption. It is noted that classification is not the only criteria for determining a search burden on the Office. What must also be considered is the amount of non-patent literature contained in various databases that must also be searched in order to find the most pertinent prior art. Applicants' arguments are primarily based on consideration of M.P.E.P. 803.02 which applies only to election of species within an elected group of compounds. The examiner here has restricted the compounds as well as the methods claimed based on the compounds' structures into four separate chemical compound types. Within each of these four groups unity of invention exists, but not between them.

The requirement is deemed to be proper and is maintained.

DECISION

The petition is **DENIED.**

The application will be forwarded to the examiner for consideration of applicants' reply filed October 7, 2005.

Any request for reconsideration of this decision must be filed within two months of the mailing date of this decision and should be directed to the Director, Technology Center 1600.

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

George C. Elliott
Director, Technology Center 1600

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MAY - 9 2006

NEEDLE & ROSENBERG, PC
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of	:
Magnus Pfahl et al	:
Serial No.: 10/224,288	: PETITION DECISION
Filed: August 19, 2002	:
Attorney Docket No.: 13099.0017U2	:

This is in response to the renewed petition under 37 CFR 1.144, filed February 28, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

The file history below is identical to that in the previous decision and is included on for reference purposes.

A review of the file history shows that this application was filed under 35 U.S.C. 111 on August 19, 2002, and contained claims 1-26. In a first Office action, mailed March 11, 2005, the examiner set forth a restriction requirement, dividing the claims into 13 groups, as follows:

Group I, claim1, compounds where Ar_1 is aryl and Ar_2 is aryl;
Group II, claim 1, compounds where Ar_1 is aryl and Ar_2 is heteroaryl;
Group III, claim 1, compounds where Ar_1 is heteroaryl and Ar_2 is aryl;
Group IV, claim 1, compounds where Ar_1 is heteroaryl and Ar_2 is heteroaryl;
Group V, claim 18, a process for preparing;
Group VI, claims 23-24, method of modulating where Ar_1 is aryl and Ar_2 is aryl;
Group VII, claims 25-26, method of treating where Ar_1 is Aryl and Ar_2 is aryl;\
Group VIII, claims 23-24, method of modulating where Ar_1 is aryl and Ar_2 is heteroaryl;
Group IX, claims 25-26, method of treating where Ar_1 is aryl and Ar_2 is heteroaryl;
Group X, claims 23-24, methods of modulating where Ar_1 is heteroaryl and Ar_2 is aryl;
Group XI, claims 25-26, method of treating where Ar_1 is heteroaryl and Ar_2 is aryl;
Group XII, claims 23-24, methods of modulating where Ar_1 is heteroaryl and Ar_2 is heteroaryl;
Group XIII, claims 25-26, methods of treating where Ar_1 is heteroaryl and Ar_2 is heteroaryl.

Note – Groups I-IV relate to claims 1-17 and 19-22, not just claim 1 which is the only independent claim.

The examiner reasoned that Groups I-IV and V were related as product and process of making and Groups I-IV and VI-XIII were related as product and methods of use and were distinct and there was no coaction among them. Applicants replied on May 5, 2005, amending claims 1 and 17-18 and electing for prosecution Group I, with traverse. Applicants argued that the restriction was improper based on court decisions such as *In re Weber* and *In re Harnish* and that the structure possessed unity of invention as defined therein. Applicants also requested that the Office modify their assignment records. Applicants further elected the species of Example 20 in a telephone interview on June 8, 2005.

The examiner mailed an action on the merits to applicants on August 11, 2005, setting a three month shortened statutory period for reply, responding to applicants' traversal of the restriction requirement by noting that the differences in Ar_1 and Ar_2 and the structures created by them did not provide a structure common to all compounds and the structures therefor did not meet the unity of invention test cited in the court decisions. The requirement was then made Final. The examiner noted that process of making and method of treating claims commensurate in scope with the elected compound claims would also be examined upon allowance of a compound claim. Claims 1-17 and 21 were rejected under 35 U.S.C. 102(b) as anticipated by Bach et al or under 35 U.S.C. 103(a) as obvious over Bach et al. Claims 1-17 and 21 were also rejected under 35 U.S.C. 103(a) as obvious over Lee et al.

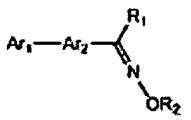
Applicants filed a reply on October 7, 2005, again traversing the restriction requirement and responding to each of the rejections of record. Applicants also filed this petition to withdraw the restriction requirement on October 11, 1005.

No action on the reply filed October 7, 2005 has been taken by the examiner due to the pending decision on petition.

DISCUSSION

The discussion from the previous decision is included for reference purposes.

A review of the claims shows that claim 1 is directed to compounds having the following formula:



A review of the four variables shows that R_1 and R_2 are hydrogen or organic radicals of 12 carbons or less (or an amino group for R_1). Such radicals are fairly common and offer no definitive difference over prior art. Ar_1 and Ar_2, however, are aryl or heteroaryl radicals which may be substituted and may include additional ring systems or create a fused ring system. The

examiner divided the compound claims into four separate groups depending on the values for Ar_1 and Ar_2 as to whether they are aryl or herteroaryl. (Note that claim 7 presents 7 different fused ring systems for Ar_1 and claim 12 presents at least 3 heteroaryl ring systems for Ar_2.)

Claims 18-20 are directed to a process for making the compounds in general. Claims 21-22 are directed to a pharmaceutical composition of claim 1 are included with the compound claims. Claims 23-24 are directed to a method of modulating lipid metabolism and claims 25-26 are directed to treating type 2 diabetes.

The examiner has properly separated compound/composition claims from the method of making claims and the two methods of using claims based on different statutory class of invention. The examiner has also properly separated the three method type claims based on their different uses. The examiner also correctly indicated that upon a finding of allowability of product claims, method of making or using claims of commensurate scope would be rejoined and examined for compliance with all applicable statutes.

The examiner also provided proper reasons for the restriction requirement including burden on the Office to search and examine all possible inventions claimed.

Applicants argue that the restriction is improper in view of the decisions of *In re Weber* and *In re Haas* and others. The principle enunciated in these court decisions is that compounds having a substantial common core wherein the compounds differ only in the radicals attached to the common core and wherein the activity of the compound is provided by the core have unity of invention and should not be subject to restriction requirement. As noted above there is a common core here, but it consists of only a "-C=N-O-" core which likely does not provide the activity of the claimed compounds. All of the rest of the structure is variable. It is noted that two of the four variables are of a general nature, the R_1 and R_2. However the two aryl or herteroaryl variables, which in essence form the major portion of the compounds, vary significantly. That the examiner separated the compounds into four groups based on aryl/aryl, aryl/heteroaryl, heteroaryl/aryl and heteroaryl/heteroaryl combinations is reasonable as these do not have a common core or structure as shown by the specification and dependent claims. Within each group defined by the examiner election of species is also permitted with the guidelines of M.P.E.P. 803.02 to be followed. It appears that the examiner has done this.

Applicants also appear to argue that aryl and heteroaryl are sufficiently similar that they should be searchable together. As stated by the examiner as well as by applicable classifications of the various groups, such is not a valid assumption. It is noted that classification is not the only criteria for determining a search burden on the Office. What must also be considered is the amount of non-patent literature contained in various databases that must also be searched in order to find the most pertinent prior art. Applicants' arguments are primarily based on consideration of M.P.E.P. 803.02 which applies only to election of species within an elected group of compounds. The examiner here has restricted the compounds as well as the methods claimed based on the compounds' structures into four separate chemical compound types. Within each of these four groups unity of invention exists, but not between them.

In applicants' renewed petition applicants contend that they have made no statement that "aryl and heteroaryl are sufficiently similar that they are searchable together", as stated in the preceding paragraph. However applicants' argument that restriction within a claim, as was done here, is improper no matter what the circumstances is in effect such an argument. Applicants argue that *In re Weber* and *In re Haas* and *In re Harnisch* all hold that the Office has no authority to divide a claim up as has been done here. That is not necessarily the holding. The holding, similar in all three cases, is that where "unity of invention" exists it is improper to divide up a claim. Unity of invention is based on there being a common property or use AND a significant common structural element essential to that property or use. It is also noted that each of these cases involved a rejection under 35 U.S.C. 121 of claims subject to a restriction requirement and the basic holding of the Court was that such rejections of a claim were improper. Here no rejection of a claim under 35 U.S.C. 121 has been made. That a structure has been held to lack "unity of invention" has been made and restriction therefore is proper.

Applicants argue that one "would obviously recognize, despite the substitution of oxygen or nitrogen for carbon atoms, the common structural features such as rigid, planar or conjugated, aromatic rings." Granted that substitution of oxygen or nitrogen for carbon does not change the "geometry" or "spatial orientation" of the structure to any significant extent, but such substitution does change the properties of the compound/composition. Here, a small common structure is provided – the $-C(R_1)=N-OR_2$ structure. The major variables are Ar_1 and Ar_2 where Ar_2 is a single aromatic ring which contains 0, 1 or 2 nitrogen atoms and 0-3 substituents (see claims 10 and 11) and Ar_1 is at least a bicyclic structure containing 0, 1 or 2 nitrogen atoms and 0-5 substituents (see claims 6 and 7). In this particular instance the presence of heterocyclic rings would control classification which, as can be seen, would be variable depending on the number and location of the heteroatoms. Further, the only common structure, as noted above, is insignificant when compared to the ring structures and would not be the basis for classification nor form a substantial structural feature for the compound/composition.

The examiner's restriction between product and process claims is proper, but subject to rejoinder should product claims be determined to be allowable. The restriction between compounds as set forth by the examiner is also deemed to be proper for the reasons set forth above and in the previous petition decision.

DECISION

The petition is **DENIED.**

The application will be forwarded to the examiner for consideration of applicants' reply filed October 7, 2005.

Any request for reconsideration of this decision must be filed within two months of the mailing date of this decision and should be directed to the Director, Technology Center 1600.

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

George C. Elliott
Director, Technology Center 1600

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Ballard Spahr LLP
SUITE 1000
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ATLANTA GA 30309-3915

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Application of :
Magnus PFAHL et al. :
Application No. 10/224,288 : ON PETITION
Filed: August 19, 2008 :
Attorney Docket No.: 13099.0017U2 :

This is a decision on the petition filed July 11, 2006, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 1600 (Technology Center Director), dated May 9, 2006, which refused to withdraw the restriction requirement of March 11, 2005.

A Notice of Abandonment was mailed March 4, 2009. As the application is now abandoned, the petition to overturn the decision of the Technology Center Director is **DISMISSED** as moot.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/16/08

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10224291 Patent No.: 7253078 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: N/A

SPE _____ Art Unit 2814

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

COPY MAILED

MAY 07 2003

OFFICE OF PETITIONS

In re Application of
Dennis Bowler and Jorah Wyer
Application No. 10/224,310
Filed: August 20, 2002
Attorney Docket No.:
60988/P015US/10107410
Title: SYSTEMS AND METHODS OF OPERATING AN INCOHERENTLY BEAM COMBINED LASER

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 April 3, 2003.

The above-identified application was filed on August 20, 2002, identifying Dennis Bowler and Jorah Wyer 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 in compliance with 37 C.F.R. §1.63, a surcharge for its late filing, the basic 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, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

In reply, applicant filed the instant petition (and fee), as well as the surcharge associated with the late filing of an oath or declaration, the filing fee, and the excess claim fees. To make timely this reply, a five-month extension of time was requested.

Petitioner has also submitted a declaration of facts executed by the attorney of record, where he attests over his registration number that he personally mailed a complete copy of the application to the non-signing inventor on several occasions. It will be presumed by the Office that these mailings were sent to the last known address of the non-signing inventor, 908 Southerly Road, Apt. #2, Towson, MD 21204.

Petitioner has not stated whether he is filing under the "Inventor Refuses to Sign" standard or the "Inventor cannot be Reached" standard. As a package was sent to the non-signing inventor at his last known address, it will be assumed that Petitioner is filing under the former.

Petitioner has met requirements (1) – (4) above.

Regarding the fifth requirement above, the declaration is not compliant with 37 C.F.R §1.63(a)(3), in that the citizenship is not given for the non-signing inventor.

For this reason, 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)."

On renewed petition, Petitioner may submit a declaration which has been executed by either the previously signing inventor or both joint inventors, which complies with the requirements of 37 C.F.R §1.63.

The reply to this letter may be submitted by mail[2, 3], hand-delivery[4], or facsimile[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

---

2 Commissioner for Patents, Box DAC, Washington, DC 20231.

3 **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.**

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

5 (703) 308-6916, Attn: Office of Petitions.

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Paper No. 8

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DALLAS TX 75201-2784

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Dennis Bowler and Jorah Wyer
Application No. 10/224,310
Filed: August 20, 2002
Attorney Docket No.:
60988/P015US/10107410
Title: SYSTEMS AND METHODS OF OPERATING AN INCOHERENTLY BEAM COMBINED LASER

DECISION ON RENEWED 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 3, 2003.

The above-identified application was filed on August 20, 2002, identifying Dennis Bowler and Jorah Wyer 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 in compliance with 37 C.F.R. §1.63, a surcharge for its late filing, the basic 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, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was filed on April 3, 2003, and was dismissed via a decision mailed on May 7, 2003, for failure to submit an acceptable oath or declaration.

The decision on the original petition stated:

Petitioner has not stated whether he is filing under the "Inventor Refuses to Sign" standard or the "Inventor cannot be Reached" standard. As a package was sent to the non-signing inventor at his last known address, it will be assumed that Petitioner is filing under the former.

With the Renewed petition, the petitioner has included a supplemental declaration which corrects the previously mentioned deficiency with the declaration.

As the renewed petition has failed to address this point, the petitioner has acquiesced that he is asserting that the petition has been filed under the "Inventor Refuses to Sign" standard.

As such, 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 inventors 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 2800 for further processing.

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

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

United States Patent and Trademark Office

Jorah Wyer
908 Southerly Rd., Apt. #2
Towson, MD 21204

In re Application of
Dennis Bowler and Jorah Wyer
Application No. 10/224,310
Filed: August 20, 2002
Attorney Docket No.: 60988/P015US/10107410
Title: SYSTEMS AND METHODS OF OPERATING AN INCOHERENTLY BEAM COMBINED LASER

LETTER

COPY MAILED

JUL 1 6 2003

OFFICE OF PETITIONS

Dear Mr. Wyer:

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

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Kikuchi, et al. :
Application No. 10/224,323 : DECISION ON PETITION
Filed: August 21, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 08312-292402 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 20, 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 **GRANTED**.

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

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

37 CFR § 1.78(a)(3) requires 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. Since the statement contained in the petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3). If this is not a correct interpretation, petitioners should promptly notify the Office.

Petitioners state that all nonprovisional applications for which benefit is claimed, except for Application No. 09/005,027, were listed on the transmittal provided with the application on August 21, 2002. Therefore, petitioners state that the present petition is filed to correct the omission of Application No. 09/005,027.

Petitioners are informed that the current procedure 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). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 only noted the claim for priority of Application No. 09/785,161 in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt. A petition is required for the other nonprovisional applications listed on the transmittal, but not recognized by the Office.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

This application is being forwarded to Technology Center Art Unit 2621 for appropriate action on the amendment filed April 20, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley
Senior Petitions 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
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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
10/224,323	08/21/2002	2621	1526	P 292402 T3KF-95S0610-1D1	32	31	10

CONFIRMATION NO. 9367

00909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

CORRECTED FILING RECEIPT

OC000000020198479

Date Mailed: 08/25/2006

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)

Shinichi Kikuchi, Yokohama-shi, JAPAN;
Kazuhiko Taira, Yokohama-shi, JAPAN;
Tomoaki Kurano, Yokohama-shi, JAPAN;
Hideki Mimura, Yokohama-shi, JAPAN;

Assignment For Published Patent Application

KABUSHIKI KAISHA TOSHIBA

Power of Attorney:

Eric Hernandez--47641

Domestic Priority data as claimed by applicant

This application is a DIV of 09/785,161 02/20/2001 ABN
which is a CON of 09/392,788 09/09/1999 ABN
which is a CON of 09/005,027 01/12/1998 ABN
which is a DIV of 08/630,250 04/10/1996 PAT 6,134,383

Foreign Applications

JAPAN 7-085693 04/11/1995

If Required, Foreign Filing License Granted: 09/20/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/224,323

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Recording medium, recording apparatus and recording method for recording data into recording medium, and reproducing apparatus and reproducing method for reproducing data from recording medium

Preliminary Class

386

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
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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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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

COPY MAILED
SEP 11 2006
OFFICE OF PETITIONS

In re Application of :
Kikuchi, et al. :
Application No. 10/224,354 : DECISION ON PETITION
Filed: August 21, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P 292403 :
T3KF-95S0610-1D1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 20, 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 GRANTED.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2621 for appropriate action on the amendment filed April 20, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/224,354	08/21/2002	2621	1472	P 292403 T3KF-95S0610-1D1	32	28	10

CONFIRMATION NO. 1636

REPLACEMENT FILING RECEIPT

00909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000019881613

Date Mailed: 08/03/2006

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

Applicant(s)

Shinchi Kikuchi, Yokohama-shi, JAPAN;
Kazuhiko Taira, Yokohama-shi, JAPAN;
Tomoaki Kurano, Yokomama-shi, JAPAN;
Hideki Mimura, Yokohama-shi, JAPAN;

Assignment For Published Patent Application

KABUSHIKI KAISHA TOSHIBA

Power of Attorney:

Eric Hernandez--47641

Domestic Priority data as claimed by applicant

This application is a DIV of 09/785,161 02/20/2001 ABN
which is a CON of 09/392,788 09/09/1999 ABN
which is a CON of 09/005,027 01/12/1998 ABN
which is a DIV of 08/630,250 04/10/1996 PAT 6,134,383

Foreign Applications

JAPAN 7-085693 04/11/1995

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 US10/224,354

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Recording medium, recording apparatus and recording method for recording data into recording medium, and reproducing apparatus, and reproducing method for reproducing data from recording medium

Preliminary Class

386

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.

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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
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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of :
Mutsumi Kimura et al :
Application No. 10/224,412 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 100630.01 :

This is a decision on the petition, filed June 1, 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 24, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Mimo et al. :
Application No. 10/224,436 : DECISION ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 021075 :

This is a decision on the petition under 37 CFR 1.181, filed September 12, 2006, to withdraw the holding of abandonment for the above-identified application.

On December 29, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on March 30, 2006. A Notice of Abandonment was mailed on September 1, 2006.

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

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish 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 the withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the final Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the final Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2627 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of :
MIOMO et al. :
Application No. 10/224,436 : DECISION ON PETITION
Filed: 08/21/2002 :
Attorney Docket No. 021075 :

This is decision on the petition under 37 CFR 1.181, filed November 2, 2007, to withdraw the holding of abandonment.

On December 29, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on March 30, 2006. A Notice of Abandonment was mailed on September 1, 2006. On September 12, 2006, petitioners filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment due to non-receipt of the final Office Action. The petition was granted by the decision of December 1, 2006. On May 4, 2007, the Technology Center technical support staff re-mailed the final Office Action, which restarted the three-month shortened statutory period to reply, to ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP, 1725 K STREET, NW SUITE 1000, WASHINGTON DC 20006.

On November 2, 2007, petitioners filed the present petition asserting that they did not receive the re-mailed Office Action of May 4, 2007, as evidenced by their firm's PTO mail log dated May 7, 2007 through May 11, 2007. A copy of the firm's mail log accompanies the petition. Petitioners requested that the Office re-mail the final Office Action and re-start the period for reply.

The Office notes that the correspondence address of record has changed to KRATZ, QUINTOS & HANSON, LLP, 1420 K STREET, N.W., SUITE 400, WASHINGTON DC 20005. It is unclear from the record as to the date petitioners submitted a request to change the correspondence address with the USPTO. A showing of non-receipt cannot be established if the law firm relocated prior to May 4, 2007, and did not submit a timely change of correspondence address with the USPTO.

In view of the above, the petition to withdraw the holding of abandonment is **dismissed** without prejudice upon the showing that petitioners either (1) submitted a timely change of correspondence address in the USPTO or (2) did not relocate their office prior to May 4, 2007, the date the final Office Action was re-mailed.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

If petitioners cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioners may file a petition under 37 CFR 1.137(b), accompanied by a reply to the outstanding Office Action, a petition fee, and an appropriate statement of unintentional delay.

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 Petition

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

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
MIOMO et al. :
Application No. 10/224,436 : DECISION ON PETITION
Filed: 08/21/2002 :
Attorney Docket No. 021075 :

This is decision on the renewed petition under 37 CFR 1.181, filed March 13, 2008, to withdraw the holding of abandonment.

On December 29, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on March 30, 2006. A Notice of Abandonment was mailed on September 1, 2006. On September 12, 2006, petitioners filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment due to non-receipt of the final Office action. The petition was granted by the decision of December 1, 2006. On May 4, 2007, the Technology Center technical support staff re-mailed the final Office action, which restarted the three-month shortened statutory period to reply. On November 2, 2007, petitioners filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment, in which they asserted that they did not receive the re-mailed Office action of May 4, 2007, as evidenced by their firm's PTO mail log dated May 7, 2007 through May 11, 2007. A copy of the firm's mail log accompanied the petition. Petitioners requested that the Office re-mail the final Office Action and re-start the period for reply. On January 16, 2008, the Office mailed a decision dismissing the petition. On March 13, 2008, petitioners filed the present renewed petition.

On renewed petition, petitioners again asserted that the firm did not receive the final Office action of May 4, 2007, as evidenced by the firm's PTO mail log dated May 7, 2007 through May 11, 2007. Furthermore, petitioners stated that the firm did not relocate before the mailing of the Office action on May 4, 2007. Petitioners provided a copy of a SUBLEASE AGREEMENT in support of the petition.

A review of the written record indicates no irregularity in the mailing of the final Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome

by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The renewed petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact. In view of the above, the petition is **GRANTED**. The holding of abandonment is withdrawn and the application is restored to pending status.

Technology Center Art Unit 2627 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the final Office action. The three (3) month statutory time period for responding to the final Office action will be set to run from the date of the re-mailing of the Office action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

MAILED

MAY 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,539,106 :
Miomo et al. :
Issue Date: May 26, 2009 :
Application No. 10/224,436 : DECISION ON REQUEST FOR
Filed: August 21, 2002 : RECONSIDERATION OF
Attorney Docket No. 021075 : PATENT TERM ADJUSTMENT
Title: DATA PROCESSING DEVICE :
AND DATA COPYING METHOD :

This is a decision on the petition filed on July 27, 2009, 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 two hundred twenty-seven (1227) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety (890) days is **GRANTED to the extent indicated herein.**

Patentees dispute the 1007-day reduction under 37 CFR 1.704(b) for applicants taking in excess of three months in filing a response in compliance with 37 CFR 1.113(c) on December 30, 2008. Patentees state that there was no delay by applicants.

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges (not candor) to calculations determined prior to the notice of allowance (and reflected in the determination sent

challenges (not candor) to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 1007-day reduction is dismissed as untimely.

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 22, 2005 and ends on December 29, 2008, the day before the RCE was filed, and is 1226 days. See 35 U.S.C. 154(b)(1)(B)(i). The amount of overlap is 1 day. As such, the patent term adjustment is 890 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight **hundred ninety (890)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant, at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,539,106 B2

DATED : **May 26, 2009** **DRAFT**

INVENTOR(S) : Miomo 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 220 days

Delete the phrase "by 220 days" and insert – by 890 days--

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EDGAR R. CATAXINOS
TRASBRITT, PC
P.O. BOX 2550
SALT LAKE CITY UT 84110

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of
Kevin J. Brodbeck et al
Application No. 10/224,444
Filed: August 19, 2002
Attorney Docket No. ARC 2777N2

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/615,568, filed July 13, 2000, set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

The amendment submitted with the instant petition reference Application No. 09/532,337, (in addition to Application No. 09/615,568), filed March 21, 2000 in the first paragraph of the substitute specification. However, the petition only reference Application No. 09/615,568, filed July 13, 2000 for additional benefit claim. Clarification is required.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment to address the above matter is required.

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to 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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TRASBRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of
Kevin J. Brodbeck et al
Application No. 10/224,444
Filed: August 19, 2002
Attorney Docket No. ARC 2777N2

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed August 8, 2005, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate Application No. 08/993,208, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/033,439, which was filed on December 20, 1996, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains 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 119(e) to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1651 for appropriate action on the amendment submitted Augustr 8, 2005, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications,

and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/224,485	17-Apr-03	MARK L. OSKOTSKY, ET AL.	1857.0680002

Title: HIGH NUMERICAL APERTURE PROJECTION FOR MICROLITHOGRAPHY

Art Unit	Paper Number

Correspondence Address:
MICHAEL V. MESSINGER
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON, DC. 20005-3934

PATENT & TRADEMARK OFFICE
MAILED
APR 25 2003
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

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

Michael V. Messinger
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934

In re:	Oskotsky et al	:	DECISION ON REQUEST
Serial No.:	10/224,485	:	UNDER 37 CFR 5.25
Filing date:	August 21, 2002		
Docket No:	1857.0680002		

Title: HIGH NUMERICAL APERTURE PROJECTION FOR MICROLITHOGRAPHY

This is a decision on the petition filed on April 17, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(iii) have not been met.

First, it is pointed out that the instant file does NOT include any exhibits (A-P) as referenced in the petition.
Second, the petition is denied in that it lacks sufficient evidence to conclude that the applications (in Taiwan, South Korea, Japan and the EPO) were filed through error and without deceptive intent. Statement of error must be supported by fact. There is presently, no explanation with respect to the circumstances surrounding the "error". The mere conclusion that an error occurred through oversight without more, falls short of what the regulations require. The discovery, on

October 8, 2002, that additional patent application material was filed in the proscribed filings requires additional explanation to constitute an error.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/224,485	**4/17/03**	**MARK L. OSKOTSKY, ET AL.**	**1857.0680002**

Title: **HIGH NUMERICAL APERTURE PROJECTION FOR MICROLITHOGRAPHY**

Art Unit	Paper Number

Correspondence Address:
MICHAEL V. MESSINGER
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON, DC. 20005-3934

PATENT & TRADEMARK OFFICE
MAILED
JUL 01 2003

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 530,945
Grant Date: 01-Jul-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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

Michael V. Messinger
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, NW
Washington, DC 20005

In re:	OSKOTSKY et al	:	DECISION ON REQUEST
Serial No.:	10/224,485	:	UNDER 37 CFR 5.25
Filing date:	August 21, 2002		
Docket No:	1857.0680002		

Title: **HIGH NUMERICAL APERTURE PROJECTION FOR MICROLITHOGRAPHY**

In view of the communication(s) filed June 20, 2003, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
Taiwan	August 20, 2002
South Korea	August 21, 2002
Japan	August 21, 2002
European Patent Office	August 21, 2002

Approved:

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Troutman Sanders LLP
600 Peachtree Street, NE
Suite 5200
Atlanta, Georgia 30308-2216

MAILED

FEB 06 2003

Director's Office
Group 3700

In re application of
James West

Serial Number: 10/224534
Filed: August 20, 2002

: DECISION ON PETITION
: TO MAKE SPECIAL
UNDER 37 CFR. 1.102(c)

For: **INCINERATING COMMODE**

This is a decision on the petition filed on August 20, 2002, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 2/4/03

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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Paper No. 10

BAO TRAN
ALIGN TECHNOLOGY INC.
881 MARTIN AVENUE
SANTA CLARA, CA 95050

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Steuben et al. :
Application No. 10/224,538 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. AT-000206 US :

This is a decision on the petitions under 37 C.F.R. § 1.137(b), filed January 20, 2004 and July 6, 2004, to revive the above-identified application.

The petitions are **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 27, 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 28, 2002. A Notice of Abandonment was mailed on June 17, 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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OFFICE OF PETITIONS

In re Application of
Bodley et al.
Application No. 10/224,547
Filed: August 20, 2002
Attorney Docket No. : 57516

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

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 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 20, 2002, without a signed oath or declaration.

Accordingly, on September 30, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring the basic filing fee, claim fees, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on December 16, 2002, applicant submitted the basic filing fees, a $130.00 surcharge for late filing oath or declaration fee, a Statement of Facts, a petition and petition fee, and a one month extension of time to make the petition timely.

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

As to item (1), it is not clear in the documents presented whether Rule 47 applicant maintains inventor Smith can not be reached or that Smith refuses to sign the oath or declaration. If it is applicant's contention Smith cannot be found or reached, applicant must demonstrate diligent efforts were made to find or reach non-signing inventor. See MPEP 409.03(d). The Statement of Facts indicates several phone calls were made to the last known phone numbers of inventor Smith which went unanswered. In addition to phone calls, rule 47 applicant attempted to contact inventor Smith at his last known address via certified mail. However, the correspondence to inventor Smith was returned to rule 47 applicant because the letter was unclaimed. Nonetheless, rule 47 applicant

did not indicate whether the last known address of inventor Smith was verified or if a more current address could be ascertained. If rule 47 applicant seeks 47 status due to an inability to find or reach inventor Smith, "diligent effort" must be demonstrated. See 37 CFR 1.47(a).

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

If applicant desires to make the case that inventor Smith refuses to execute the oath or declaration, applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign. See MPEP 409.03(d). It is not sufficient that all of the inventors reviewed the patent application prior to its filing. The statement of facts indicates a letter was mailed to inventor Smith requesting he contact former employer Steward, inc. However, there is no indication application papers were submitted to inventor Smith for his review and signature. The facts presented do not rise to the level of refusal. If inventor Smith was presented with a copy of the application papers and he did not respond in a timely fashion such a scenario could be construed as a refusal to execute the application papers. However, rule 47 applicant must give the non-signing inventor an opportunity to sign the oath or declaration by sending the application papers to the last known address of the inventor. If applicant is aware the non-signing inventor can not be reached at the address provided on the declaration, applicant must make a showing that diligent effort has been made to locate the inventor.

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

Charlema Grant
Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

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CROWELL & MORNING LLP
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WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Takenaga et al. :
Application No. 10/224,605 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 381HI/51443 :

This is a decision on the petition filed September 15, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned March 17, 2005 for failure to timely reply to the Notice of Non-Compliant Amendment mailed February 17, 2005, which set a one month period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that a Notice of Non-Compliant Amendment 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 indicates that a review of Image File Wrapper in Private Pair reveals that the first page of the Notice was not included in what was purportedly mailed on February 17, 2005 and thus, that the document was never received through the normal mail receipt and docketing procedures.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the

holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 30 2004
Approved
Jacqueline M. Stone, Director
Technology Center 1700

Applicant	:	Subramanian, Iyer
Application No.	:	10/224,669
Filed	:	08/20/2002
Docket No.	:	ENE1.PAU.01

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT OF RECORD AND CHANGE OF CORRESPONDANCE ADDRESS

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

19900 MacArthur Blvd., Ste. 1150.
Irvine, CA 92612
November 20, 2003

Commissioner:

The attorneys listed as follows, for themselves and all other members of the firm of MYERS, DAWES, ANDRAS & SHERMAN, request they be withdrawn as attorneys of record in the above referenced patent application(s).

Richard L. Myers, Reg. No. 26,490
Daniel L. Dawes, Reg. No. 27,123
Joseph C. Andras, Reg. No. 33,469
Kenneth L. Sherman, Reg. No. 33,783
John W. Eldredge, Reg. No. 37,613
Vic Y. Lin, Reg. No. 43,754
Timothy W. Fitzwilliam , Reg. No. 46,439
David L. Henty, Reg. No. 31,323

The reason for this request is that the Applicant has requested the application file be transferred, and the application file has been transferred, to another law firm. A copy of Applicant's transfer authorization is attached.

Please, therefore, change the correspondence address and direct all future correspondence to:

Norman E. Carte, Reg. No. 30,455
Rutan & Tucker
611 Anton Blvd., Fourteenth Floor
Costa Mesa, CA 92626

The undersigned is executing this Request for Withdrawal on behalf of himself and all other attorneys listed above, and is authorized to execute this Request for Withdrawal on behalf of himself and all other attorneys listed above.

Respectfully submitted,

MYERS, DAWES, ANDRAS & SHERMAN, LLP

By _____
John W. Eldredge
(949) 223-9600
Reg. No. 37,613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of
John G. Sotos, Mark Edward Curran, Marco Guida, and Hugh Y. Rienhoff
Application No. 10/224,683
Filed: August 20, 2002
Attorney Docket No. 4389-33
Title: POLYMORPHISMS ASSOCIATED WITH ION-CHANNEL DISEASE

DECISION ACCORDING 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 December 27, 2002.

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

The above-identified application was filed on August 20, 2002, identifying John G. Sotos, Mark Edward Curran, Marco Guida, and Hugh Y. Rienhoff as joint inventors. On September 27, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

C.F.R. §1.63 and a surcharge for its late filing. The Notice further indicated that the Sequence Listing was not compliant with the requirements, and set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), as well as a sequence listing and the surcharge associated with the late filing of an oath or declaration.

Accompanying the petitions was a statement from an attorney of record, a declaration executed by each of the joint inventors save inventor Guida, a copy of a letter sent to the non-signing inventor, and a copy of the return receipt which evinces that the non-singing inventor received the package which was sent to him.

The petition includes the last known address for each of the non-signing inventors. The documents submitted establish 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.

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 inventors 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 returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

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

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

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

Bemis Company, Inc.
2200 Badger Avenue
Oshkosh, WI 54904

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OFFICE OF PETITIONS

In re Application of
Wuest et al.
Application No. 10/224,705
Filed: August 20, 2002
Attorney Docket No. 1048-1159

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **granted**.

This application became abandoned for failure to submit a proper reply to the final Office action mailed October 29, 2004, which set a three-month shortened statutory period to respond. On April 14, 2005, petitioner filed a timely amendment in response to the final Office action and a request for an extension of time for filing a response within the third month. On April 29, 2005, the examiner mailed an Advisory action, stating that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, the application became abandoned on April 30, 2005. A Notice of Abandonment was mailed on August 22, 2005.

In the present petition, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a request for continued examination and a submission, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to Technology Center Art Unit 1773.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

THOMAS E WETTERMANN
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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JUN 23 2003

OFFICE OF PETITIONS

In re Application of
Deval M. Desai
Application No. 10/224,710
Filed: August 21, 2002
Attorney Docket No. 01-1272

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 30, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on August 21, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On September 30, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on October 3, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 13-2490.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt, setting forth a projected publication date of February 26, 2004, accompanies this decision.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 2800 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

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United States Patent and Trademark Office
P.O. Box 1450
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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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OFFICE OF PETITIONS

In re Application of :
Garth Rockwood Parker :
Application No. 10/224,712 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. DNA01267 :

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**.

This application became abandoned for failure to timely reply to the Office action mailed November 4, 2003, which set a one (1) month period to respond. Accordingly, this application became abandoned on December 5, 2003. A Notice of Abandonment was mailed on June 7, 2004.

The file is being forwarded to Technology Center 1700 for review of the "Request For Continued Examination," submitted August 23, 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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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
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PHILADELPHIA, PA 19106-2399

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OFFICE OF PETITIONS

In re Application of :
Garth Rockwood Parker :
Application No. 10/224,712 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. DNA01267 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2004, to revive the above-identified application. The decision on petition mailed September 8, 2004 is hereby vacated and replaced with the instant decision.

The petition is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action mailed November 4, 2003, which set a one (1) month period to respond. Accordingly, this application became abandoned on December 5, 2003. A Notice of Abandonment was mailed on June 7, 2004.

Petitioner submitted a Request For Continued Examination (RCE) on August 24, 2004. However, the prosecution in the application must be closed before a RCE may be submitted. As the Office action of November 4, 2003 was not final, a RCE is not an appropriate response at this time since prosecution in the application is not closed. As such, the RCE, filed August 24, 2004 is considered improper. However, as the reply to the non-final Office action was submitted with the RCE, the reply will be considered by the Examiner.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

#9

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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SEP - 2 2003

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA CA 91101

In re Application of	:
Robert E. Reiter et al	:
Serial No.: 10/224,720	: PETITION TO MAKE SPECIAL
Filed: August 20, 2002	:
Attorney Docket No.: 30435.54US4A	:

This is in response to applicants' petition filed March 26, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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Paper No. 5

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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OFFICE OF PETITIONS

In re Application of :
Hanoh Kremer, et al. :
Application No. 10/224,727 : DECISION GRANTING PETITION
Filed: August 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 6287P001 :

This is a decision on the petition, filed November 24, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 21, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 22, 2004 accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being forwarded to Technology Center Art Unit 2655 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc:

Blakely, Sokoloff, Taylor & Zofman, LLP
60 S. Market Street, Suite 510
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

COPY MAILED

JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Li, et al.
Application No. 10/224,748
Filed: August 20, 2002
Attorney Docket No. 2519P
For: HIGH EXTINCTION RATIO AND LOW CROSSTALK COMPACT OPTICAL SWITCHES

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE OF INCOMPLETE NONPROVSIONAL APPLICATION AND PETITION UNDER 37 CFR 1.17(h)", filed November 4, 2002 (certificate of mailing date October 29, 2002), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed October 22, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 20, 2002. On October 22, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application because it was deposited without drawings. 35 USC 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the application be accorded a filing date of August 20, 2002 on the basis that 6 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on August 20, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 20, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawings were filed on August 20, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no 02-2120 will be credited the $130.00 petition fee.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 20, 2002, using the 6 sheets of drawing figures filed with the instant petition. Office records will be corrected to show that 6 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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12/20/02 — Serial/Patent # 10/224,748

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	11/04/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 02--2120

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard receipt proves drawings present on filing; Refund pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Shirene Willis — TITLE: Pet Attny

SIGNATURE: E Shirene Willis — PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] — DATE: 1/17/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

PATTERSON & SHERIDAN, LLP
3040 POST OAK BLVD
SUITE 1500
HOUSTON TX 77095

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of
Ming Li et al
Application No. 10/224,748
Filed: August 20, 2002
Attorney Docket No. 2519P

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed April 19, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications.

The petition is **DISMISSED**.

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

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

The petition fails to comply with item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(I). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified

amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commerce on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1]

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

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PATTERSON & SHERIDAN, LLP
3040 POST OAK BLVD
SUITE 1500
HOUSTON, TX 77095

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Ming Li et al
Application No. 10/224,748
Filed: August 20, 2002
Attorney Docket No. 2519P

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **Granted**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains 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 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 2872 for appropriate action on the amendment submitted August 1, 2006, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application,

and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) 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

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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FROMMER LAWRENCE & HAUG
1745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

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AUG 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Susumu Senshu :
Application No. 10/224,767 :
Filed: August 20, 2002 :
Attorney Docket No. 450100-03493.2 :

This is a decision on the petition, filed August 11, 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 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petition, the file will be forwarded to Technology Center AU 2652for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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JAN 17 2007

OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of :
Van H. Nguyen. :
Application No. 10/224,824 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 47586/GSL/N303 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 14, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 10, 2006. A Notice of Abandonment was mailed on August 21, 2006. However, on August 14, 2006, the present petition was filed.

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

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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DEC 17 2009

OFFICE OF PETITIONS

In re Patent No. 6,861,638 :
Issue Date: March 01, 2005 :
Application No. 10/224,924 : DECISION ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. **019937.0411** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on March 01, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **THOMAS F. MARSTELLER, JR.**
MARSTELLER & ASSOCIATES, P.C.
P.O. BOX 803302
DALLAS TX 75380-3302

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Commissioner for Patents
United States Patent and Trademark Office
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RG & ASSOCIATES
1103 TWIN CREEKS
STE. 120
ALLEN TX 75013

MAILED

JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 10/224925	:	ON PETITION
Filing Date 08/20/2002	:	
Attorney Docket Number: 125310-1001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2009, 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 November 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 18, 2007.

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

This application is being referred to Technology Center AU 2454 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.

/Derek L. Woods/
Derek L. Woods
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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OFFICE OF PETITIONS

MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

In re Application of :
Justin F. Whitling et al :
Application No. 10/224,956 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 7327 US :

This is a decision on the petition under 37 CFR 1.137(b), filed, November 2, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A petition to revive cannot be granted where there is an outstanding requirement(s). 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 March 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2007. Accordingly, the petition to revive cannot be granted until the $1440 Issue fee and $300 Publication fee is received.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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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MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DIRVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Justin F. Whitling et al :
Application No. 10/224,956 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 7327 US :

This is a decision on the renewed petition filed June 2, 2008 under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition, filed June 2, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) 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 March 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2007.

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

The petition under 37 CFR 1.313(c)(2) 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 2, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

This matter is being referred to Technology Center AU 2622 for processing of the previously filed request for continued examination under 37 CFR 1.114 and Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 29 2009

OFFICE OF PETITIONS

MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

In re Application of :
Justin F. Whitling et al :
Application No. 10/224,956 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 7327 US :

This is a decision on the petition, filed August 19, 2009 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 12, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The amendment received with the petition on August 19, 2009 did not place the application in condition for allowance. An Advisory Action from the primary examiner accompanies this decision.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/224,956	**Applicant(s)** WHITLING ET AL.	
	Examiner Victor Kostak	**Art Unit** 2622	

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

THE REPLY FILED 19 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: *4 and 7-16*.
   Claim(s) objected to: *6*.
   Claim(s) rejected: *1-3 and 5*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Victor R. Kostak/
Primary Examiner
Art Unit: 2622

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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MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

MAILED

FEB 26 2010

OFFICE OF PETITIONS

In re Application of :
Justin F. Whitling et al :
Application No. 10/224,956 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 7327 US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the Information Disclosure Statement and amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN
ONE LIBERTY PLACE
46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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AUG 16 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael Antoniou et al :
Application No. 10/224,972 :
Filed: August 21, 2002 :
Attorney Docket No. CACO-0075 :

This is a decision on the petition filed April 28, 2004, which is being treated under 37 CFR § 1.78(a)(3), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 10/358,082, filed July 21, 1999, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on August 21, 2002, and was pending at the time of filing of the instant petition. Reference to the prior-filed application was made in the transmittal letter filed with the instant application.

The current procedure 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). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 instant case, the Office noted the claim for priority of 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, the $1,330.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Wan Laymon at (703) 306-5685. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1636 for appropriate action on the amendment filed April 28, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the above-noted, prior-filed application.

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

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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ALEXANDRIA, VA 22313-1450
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Thomas W. Adams
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Louis A. Ferri, et al. :
Application No. 10/224,983 : DECISION GRANTING PETITION
Filed: August 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TRUSP0106US :

This is a decision on the petition, filed December 18, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 29, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 1600 for examination in due course.

Marianne E. Jenkins

Marianne E. Jenkins
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
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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
John Thomas Aylward :
Application No. 10/224,987 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 34976/243352 :

This is a decision on the petition, filed January 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3653 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

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COZEN & O'CONNOR
1900 MARKET STREET 6TH FLOOR
PHILADELPHIA PA 19103

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JUL 07 2004

OFFICE OF PETITIONS

In re Application of :
Antoniou et al. :
Application No.10/224,993 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. CACO-0072 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1. 78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications; and specifically includes for the first time a reference to 09/358,082 filed July 21, 1999..

The instant pending nonprovisional application was filed on August 21, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application as well as in the declaration present on filing.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not

note the claim for priority to the prior-filed application(s) 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) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt enclosed with the petition.

In view of the above, the $1330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-1820. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being brought to the attention of the Examiner of Technology Center AU 1636 for appropriate action on the amendment filed April 28, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 7/7/04

2 Serial/Patent # 10/224,993

	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	4	4/28/04	$ 1330
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1330

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50-1275

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No petn needed

11 REFUND REQUESTED BY: B Kaar

TYPED/PRINTED NAME: _____ TITLE: _____

SIGNATURE: _____ PHONE: _____

OFFICE: _____

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 7-14-04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

DANIEL C. MCEACHRAN
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET - SUITE 2850
CHICAGO IL 60606

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OCT 0 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Wilfried Weigel et al
Application No. 10/225,002
Filed: August 21, 2002
Attorney Docket No. 1003-0043

This is a decision on the petition under 37 CFR 1.137(a), filed September 9, 2003, which is being treated as a Petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 23, 2002.

The petition states that the Notice was never received by applicant's attorneys as of September 8, 2003. A careful review of the file records do indicate that the Notice of September 23, 2002, was inadvertently not mailed to applicant.

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

Petitioner may request a refund of the $110 petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

David J. Bates
Foley & Lardner
777 East Wisconsin Ave.
Milwaukee WI 53202-5367

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APR 14 2004

OFFICE OF PETITIONS

In re Application of
Peter L. Olcott
Application No. 10/225,053
Filed: August 21, 2002
Attorney Docket No. 041767-0101
Title: METHOD AND SYSTEM FOR RECOGNIZING MACHINE GENERATED TEXT AND ICONS IN GRAPHIC IMAGES

DECISION ON PETITION

This is a decision on the petition filed February 13, 2004, under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed November 1, 2002, which set a shortened statutory period for reply of two (2) months. The notice set forth that one of the two compact discs submitted with the application upon filing failed to contain files that were in the required ASCII format, and that a replacement disc would be required. No response was received, and no extension of time under the provisions of 37 C.F.R. §1.136(a) was requested. Accordingly, the above-identified application became abandoned on January 2, 2003.

With the instant petition, Petitioner has submitted the following argument: the notice stated that if no action was taken, the failure to respond would be construed as an acceptance of the application as filed, i.e. the files which were deposited in an improper format would not be considered part of the file. Applicant took no action, expecting his inaction to be construed as acceptance of the application as filed. As such, it was improper to mail the notice of allowance.

Petitioner's argument has been considered, and it is deemed to be convincing.

As such, the petition is **GRANTED**. The holding of abandonment of the above-identified application is hereby **WITHDRAWN** and the notice of abandonment is hereby **VACATED**.

After the mailing of this decision, the application will be forwarded to the Office of Initial Patent Examination 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

SPE: M. Bella

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/06

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/225,053 Patent No.: 7046848

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The new changes do not introduce new matter nor do they affect the scope of the invention

Mark Bell — SPE

2624 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/30/08

Paper No.: —

TO SPE OF : ART UNIT ~~2138~~ 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/825058 Patent No: 7089467B2

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: NO NEW MATTER – MEANING OF CLAIMS ARE NOT CHANGED

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2117
Art Unit

10/225,066
MBI-0036-2US
Attachment B

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Mendel Biotechnology, Inc.
21375 Cabot Blvd.
Hayward CA 94545

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NOV 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Adam et al. :
Application No. 60/336,049 : ON PETITION
Filed: November 19, 2001 :
Attorney Docket No. MBI-0037P :

This is a decision on the petition under 37 CFR 1.181 filed January 23, 2002, to accord the above-identified application a filing date of November 19, 2001, instead of December 5, 2001.

The petition is **granted.**

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 19, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 19 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS .

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001). Petitioner has supplied a showing in compliance with the O.G. Notice, and the application will be accorded a filing date of November 19, 2001.

A petition fee is unnecessary for the petition and the $50 petition fee will be refunded to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 19, 2001.

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

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

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MENDEL BIOTECHNOLOGY INC
21375 CABOT BLVD.
HAYWARD, CA 94545

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OFFICE OF PETITIONS

In re Application of	:
Oliver Ratcliffe et al	:
Application No. 10/225,066	: DECISION ON PETITION
Filed: August 9, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MBI-0036-2US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 7, 2005 and resubmitted on February 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37

CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 50-1025.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1638 for appropriate action on the amendment filed February 8, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of :
Jacqueline E. Heard et al. :
Application No. 10/225,067 : DECISION ON PETITION
Filed: August 9, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 514442003600 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 13, 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 and Application Date Sheet filed with the petition.

The petition is **GRANTED**.

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

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

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

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

other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt mailed May 11, 2006 accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, was mailed May 11, 2006.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1638 for appropriate action on the amendment and Application Data Sheet filed January 13, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
T. Lynne Reuber et al :
Application No. 10/225,068 : DECISION ON PETITION
Filed: August 9, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MBI-0036-1US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 29, 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 9, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed

nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 1638 for appropriate action on the amendment filed October 29, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

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Dowell & Dowell, P.C.
1215 Jefferson Davis Highway
Suite 309
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In re Application of:
HAHNE et al.
Application No. 10/225,071
Filed: August 21, 2002
For: AIR TRAVEL SECURITY METHOD, SYSTEM AND DEVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 6, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Michael Antoniou et al :
Application No. 10/225,073 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. CACO-0074 :

This is a decision on the petition filed April 28, 2004, which is being treated under 37 CFR § 1.78(a)(3), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 09/358,082, filed July 21, 1999, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on August 21, 2002, and was pending at the time of filing of the instant petition. Reference to the prior-filed application was made in the transmittal letter filed with the instant application.

The current procedure 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). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 instant case, the Office noted the claim for priority of 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, the $1,330.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Wan Laymon at (703) 306-5685. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1636 for appropriate action on the amendment filed April 28, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the above-noted, prior-filed applications.

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

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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OFFICE OF PETITIONS

In re	:	
Antoniou, et al.	:	
Application No. 10/225,073	:	DECISION ON APPLICATION
Filed: August 21, 2002	:	FOR PATENT TERM ADJUSTMENT
Patent No. 6,881,556	:	
Issued: April 19, 2005	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed June 17, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The application for patent term adjustment is **DISMISSED**. Patentees are given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On April 19, 2005, the above-identified application matured into U.S. Patent No. 6,881,556. The patent issued with a PTA of fifty-nine (59) days.

Patentees assert entitlement to a PTA of sixty-one (61) days on the basis that the PTO improperly assessed applicants a delay of two (2) days for responding to a Notice of Allowance. The Notice

of Allowance was mailed on October 22, 2004. Applicants filed the issue fee on January 24, 2005, and were assessed two (2) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b).

Patentees state that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of fifty-nine (59) days based on an adjustment for PTO delay of one hundred fifty-three (153) 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 ninety-two (92) and two (2) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of two (2) days is at issue.

The adjustment of two (2) days has been found to be correct. Patentees' arguments have been considered, but are no persuasive. Patentees state that they responded to the Notice of Allowance on the date indicated thereon. However, the PTO calculates PTA from the mailing date of the Notice of Allowance, not the due date specified. The due date specified on the Notice of Allowance is the last day an applicant may respond to avoid abandonment of the application.

Patentees further argue that a Notice of Allowance is not a "notice or action by the Office making any rejection, objection, argument, or other request." Patentees state that a Notice of Allowance is analogous to a Notice of Omitted Items for the purposes of PTA. Patentees point out that MPEP § 2732 specifically excludes a Notice of Omitted Items from being a "notice or action by the Office making any rejection, objection, argument, or other request within the meaning of 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), since the Office does not require a reply to that notice to continue the processing and examination of the application."

It is noted that a Notice of Allowance is a notice or action by the Office making a requirement - it is a notice requiring the issue fee (and publication fee, when applicable) payment. A Notice of Allowance is not analogous to a Notice of Omitted Items, because unlike the Notice of Omitted Items, applicants must respond to the Notice of Allowance.

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

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

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

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COZEN O'CONNOR, P.C.
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OFFICE OF PETITIONS

In re Patent No. 6,881,556 :
Issue Date. April 19, 2005 :
Application No. 10/225,073 : NOTICE
Filed: August 21, 2005 :
Attorney Docket No. CACO-0074 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. John Dana Hubbard 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. Hubbard 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. Hubbard, 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.

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOHN DANA HUBBARD
MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

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OFFICE OF PETITIONS

In re Application of :
Starr et al. : DECISION DISMISSING
Application No. 10/225,081 : PETITION
Filed: August 20, 2002 :
Attorney Docket No. TSP-104 :

This is a decision on the petition filed November 26, 2002 (certificate of mailing November 19, 2002), requesting that the above-identified application be accorded a filing date of August 20, 2002, with Figures 3A and 3B as part of the original disclosure.

On August 20, 2002, the above-identified application was filed. However, on September 19, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of August 20, 2002, and advising applicants that they must submit a signed oath/declaration, the statutory basic filing fee, a surcharge for the late filing, and substitute drawings. Additionally, the Notice indicated that Figures 3A and 3B described in the specification appeared to have been omitted.

In response, on November 26, 2002 (certificate of mailing November 19, 2002), applicants filed, inter alia, the present petition, a $130.00 petition fee, and two copies of drawings sheets labeled Fig. 3A and Fig 3B. Applicants explained that the Figures 3A and 3B were not labeled correctly when filed with the original application papers.

It is obvious from the petition that no drawings were actually missing on August 20, 2002. Rather, the drawings of Figures 3A and 3B were simply unlabeled as a result of applicants' filing error. However, the Notice of Missing Parts mailed on September 19, 2002, was correct in stating that Figures 3A and 3B described in the specification appeared to have been omitted. Therefore, the requirement to submit omitted Figures 3A and 3B set forth in the Notice of Missing Parts was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

A preliminary amendment adding the label "FIG. 3A and FIG. 3B" to the unlabeled drawing figures should be filed prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 20, 2002, using the drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Valkirs et al.	:	DECISION ON REQUEST
Patent No. 7,427,490	:	FOR
Issue Date: September 23, 2008	:	RECONSIDERATION OF
Application No. 10/225,082	:	PATENT TERM ADJUSTMENT
Filed: August 20, 2002	:	and
Atty Docket No. 36671-743.201	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 13, 2008, 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 two (1002) 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 two (1002) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 1002 days, which is the sum of 175 days of A delay and 1130 days of B delay reduced by 303 days of patentees' delay.

The Office concurs with patentees' assertion the period of A delay is 175 days.

The Office does not concur with patentees' assertion the period of B delay is 1130 days. Patentees' determination fails to exclude the number of days consumed by appellate review.

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 540 day period beginning on October 25, 2005, the date the Notice of Appeal was filed, and ending on April 17,

2007, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. Excluding the 540 days consumed by appellate review results in a period of B delay of 590 days (1130 - 540).

Although the 540 days consumed by appellate review is not part of the period of B delay, the 540 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 540 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

The Office does not concur with Patentees' calculation of Patentees' delay under 35 U.S.C. 154(b)(2)(C). Patentees assert the period of patentees' delay under 35 U.S.C. 154(b)(2)(C) is 303 days. The period of patentees' delay is 305 days. Patentees have failed to recognize a 2 day reduction is warranted under 37 CFR 1.704(b) because the issue fee was filed August 18, 2008, which was three months and two days after the Office mailed a Notice of Allowance on May 16, 2008. Accordingly, a period of reduction of 2 days is being entered.

The Office concurs with patentees that the 56 day reduction associated with the filing of an Information Disclosure Statement on July 18, 2008 should be removed. It is noted that patentees filed a Rule 312 amendment and the IDS on July 18, 2008 and both documents were addressed in the July 29, 2008 Response to the Rule 312 Amendment. Patentees have been assessed a reduction of 12 days for the Rule 312 Amendment. Accordingly, the 56 day reduction associated with the filing of an IDS on July 18, 2008 is being removed.

Patentees assert the total patent term adjustment is 1002 days. However, the patent term adjustment is 1000 days, which is the sum of 175 days of A delay and 590 days of B delay and 540 days of C delay reduced by 305 days of patentees' delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 CFR § 1.136.

Pursuant to patentees' authorization, deposit account no. 23-2415 will be charged the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand (1000)** days.

Telephone inquiries should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,427,490 B2

DATED : **September 23, 2008** **DRAFT**

INVENTOR(S) : Valkirs 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 U.S.C. 154(b) by 769 days

Delete the phrase "by 769 days" and insert – by 1000 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL Paper No. 11

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

APR 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Lynam, et al.
Application No. 10/225,098
Filed: August 20, 2002
For: **METHOD AND APPARATUS TO VALIDATE A SUBSCRIBER LINE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on March 5, 2004, pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for accelerated examination.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Takayuki Yamada et al :
Application No. 10/225,162 : DECISION GRANTING PETITION
Filed: August 22, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740819-0864 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 21, 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 (571) 272-3218.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Akira Morikawa, et al. :
Application No. 10/225,186 : DECISION GRANTING PETITION
Filed: August 22, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 226959US0 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 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 February 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred 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 information disclosure statement.

Frances M. 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.*

2827

OIPE JC185 SEP 26 2002 PATENT & TRADEMARK OFFICE

PATENT
Customer No. 22,852
Attorney Docket No. 4173.0397-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

SUMIE HIRAI ET AL.

Application No.: 10/225,200

Filed: August 22, 2002

For: FABRICATING METHOD OF SEMICONDUCTOR DEVICES, FABRICATING METHOD OF PRINTED WIRED BOARDS, AND PRINTED WIRED BOARD

Group Art Unit: 2827

Examiner: Unknown

RECEIVED
SEP 30 2002
TECHNOLOGY CENTER 2800

Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

In response to the Notice dated September 16, 2002, in which an Abstract not to exceed 150 words in length is required, Applicants note that a Preliminary Amendment was filed on August 22, 2002, that amended the Abstract in a manner that complies with the 150-word requirement. A copy of the Preliminary Amendment, along with the stamped PTO card indicating receipt by the Patent Office is enclosed.

In addition, a copy of the Notice is attached.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

In addition, the amended Abstract has also been reproduced on an enclosed separate sheet.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: 9/26/02

By: _____
Richard V. Burgujian
Reg. No. 31,744

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

OIPE JC185
SEP 2 6 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/225,200	08/22/2002	Sumie Hirai	4173.0397-01

CONFIRMATION NO. 5321
FORMALITIES LETTER
CONFIRMATION NO. 5321

OC000000008791463

FINNEGAN, HENDERSON, FARABOW,
GARRETT and DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

Date Mailed: 09/16/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

If an error is noted on this Filing Re a

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. 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 required item(s) identified below must be timely submitted to avoid abandonment:

- An Abstract not to exceed 150 words in length, commencing on a separate sheet (37 CFR 1.72(b)).

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

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Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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Paper No. 10

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

MAIL

AUG 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Michiaki Takano
Application No. 10/225,204
Filed: August 22, 2002
For: **INFORMATION TRANSMISSION METHOD, MOBILE COMMUNICATIONS SYSTEM, BASE STATION AND MOBILE STATION IN WHICH DATA SIZE OF IDENTIFICATION DATA IS REDUCED**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 28, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

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

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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IMPERIUM PATENT WORKS
P.O. BOX 587
SUNOL, CA 94586

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DEC 2 7 2007

OFFICE OF PETITIONS

In re Application of Mueller et al. :
Application No. 10/225,212 : Decision on Petition
Filing Date: August 20, 2002 :
Attorney Docket No. SIE-004 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 27, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

The address of record has been, and continues to be, the address associated with customer number 47713.

On July 31, 2006, the address associated with customer number 47713 was,

Silicon Edge Law Group LLP
6601 Koll Center Parkway, Suite 245
Pleasanton, CA 94566

The Office mailed a Final Office action on July 31, 2006. The Office action set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 1, 2006.

On August 21, 2007, petitioner learned from the examiner that a final Office action had been mailed on July 31, 2006.

The instant petition asserts the delay in filing a reply was unavoidable due to a failure to receive the final Office action.

Attorney Darien Wallace signed the instant petition and a statement in support of the petition. Attorney Wallace states he worked at Silicon Edge Law Group through October of 2006 and he never received the final Office action. Attorney Wallace now works at Imperium Patent Works

and the address associated with customer number 47713 has been changed to an address for Imperium Patent Works.

Discussion:

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3) above.

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

Petitioner has two options available for establishing the entire delay in responding to the final Office action was unavoidable.

Option 1:

Petitioner can establish unavoidable delay by proving non-receipt of the final Office action at the address of record.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

As to item (2) above, Attorney Wallace has not stated he has personally searched the file wrapper where the final Office action would have been placed if received.

As to item (3) above, Attorney Wallace has not stated he has reviewed all relevant docket records.

As to item (4), petitioner has not supplied a copy any docket records where the Office action would have been entered had it been received.

Any request for reconsideration based on non-receipt of the final Office action should include items (2), (3), and (4).

Option 2:

Petitioner can prove, even if the mail was lost after being delivered to the address of record, such loss occurred despite the exercise of reasonable due care by the law firm.

"[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."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2]

Proof of the exercise of due care should include all steps taken by the law firm to ensure mail is properly handled and matched with the correct files. Any showing under Option 2 should include evidence demonstrating the training and experience of the employees responsible for taking the steps necessary to match mail with the proper files was of such a level as to result in the law firm being reasonable in relying on these employees to properly perform their tasks.

Requesting Reconsideration:

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,440 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A PDF "fillable" version of a petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] In re Mattulath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also Ray v. Lehman, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of Mueller et al. :
Application No. 10/225,212 :
Filing Date: August 20, 2002 :
Attorney Docket No. SIE-004 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Final Office action on July 31, 2006. The Office action set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 1, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the final Office action in the form of a Notice of Appeal. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2136 will be informed of the instant decision and the application, including the Pre-Appeal Brief Request for Review, will be reviewed and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Smith-Hill & Bedell
12670 NW Barnes Road, Suite 104
Portland, OR 97229

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Ysh-Pyng HARN :
Application No. 10/225,215 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. SILI 2499 (02-060) :

This is a decision on the petition filed February 7, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 18, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of February 26, 2004 accompanies this decision on petition.

The application file is being forwarded to Technology Center AU 2123 for examination in due course.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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

Cc: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Chien :
Application No. 10/225,233 : DECISION DISMISSING PETITION
Filed: August 22, 2002 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 2019-0155P-SP :

This is a decision on the petition under 37 CFR 1.55(c), filed January 6, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) and (f) for benefit of the filing date of the following foreign application: Taiwan Application No. 090219325, filed November 9, 2001.

The petition is **DISMISSED**.

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

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

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

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

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

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

the filing date of the foreign application.

The petition is not in compliance with item (2) above. 37 CFR 1.63(c)(2) requires that the oath or declaration or ADS must identify the foreign application for which a claim for priority is made. Petitioner must submit the claim for benefit of Taiwan Application No. 090219325, filed November 9, 2001, on an oath or declaration or an application data sheet in accordance with 37 CFR 1.76.

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 Senior Petitions Attorney E. Shirene Willis at (703) 308-6712

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

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Chien :
Application No. 10/225,233 : DECISION GRANTING PETITION
Filed: August 22, 2002 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 2019-0155P-SP :

This is a decision on the reconsideration petition under 37 CFR 1.55(c), filed October 19, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) and (f) for benefit of the filing date of the following foreign application: Taiwan Application No. 090219325, filed November 9, 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 must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

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

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

(5) the above-identified 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 22, 2002, which is after November 29, 2000 and within 12 months of November 9, 2001 (the filing date of the foreign application to which benefit is now being claimed). On October 19, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330.00 was received with the first petition on January 6, 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) and (f) is **granted**.

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2839 for further examination and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d) and (f).

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis at (571) 272-3230.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Ki Hwan Kim :
Application No. 10/225,277 : ON PETITION
Received: August 22, 2002 :
Attorney Docket No. 2669-0121P :

This is a decision on the petition submitted on September 22, 2004, requesting that the above-identified application be accorded a filing date of August 22, 2002, including Figure 4 from applicant's Korean priority application and replacing Figure 4 submitted with the above-identified application-as-filed on August 22, 2002.

Petitioner states, in pertinent part:

> "Applicant filed the instant application on August 22, 2004. This Application included a specification consisting of 13 pages, 7 sheets of formal drawings and a certified copy of Applicant's Priority Document, Korean Patent Application Number 2002-20116. ...
>
> Unfortunately, the version of Fig. 4 that is included in the drawings filed with this U.S. Application is an incorrect figure and simply does not show the head section of the fence, which is described in the main body of the specification, and in originally filed claims 4 and 5.
>
> Under the circumstances, Applicant respectfully requests that Applicant be permitted to substitute claim 4 of the certified copy of Applicant's aforementioned Korean priority Application for the clearly incorrect Fig. 4 of the original application and that the Application with substituted Fig. 4 from Applicant's Korean priority Application be accorded a filing date of August 22, 2002.
>
> Applicant respectfully submits that it is proper to permit this substitution of Fig. 4 of Applicant's Korean priority

> Application for Fig. 4 of this Application and accord a filing date to the amended application that included the aforementioned substituted Fig. 4, because Fig. 4 of the certified copy of Applicant's Korean priority Application was filed on even date with this Application and is the Fig. 4 that is clearly referenced in both the main body portion and/or claim portion of, Applicant's Specification. Applicant also respectfully submits that the interests of justice will be satisfied by permitting this substitution."

Petitioner's argument has been considered, but is not persuasive. The above-identified application was complete as filed on August 22, 2002, albeit with an incorrect Figure 4. The proper procedure to correct the incorrect Figure is by way of amendment and submission of the corrected drawing. Petitioner has not presented any reason as to why deviation from the proper procedure is required in this instance, nor has petitioner established how the interests of justice would be served by allowing petitioner's request.

Furthermore, the Patent Examiner is the appropriate official who may determine the completeness and consistency of any drawing and whether or not any drawing contains new matter. As such, this office is not the proper forum for review of the sufficiency of any drawings submitted by applicant.

Additionally, please note MPEP 201.13G "Incorporation by Reference":

> "Applicant may incorporate by reference the foreign priority application by including a statement in the U.S. application-as-filed that such specifically enumerated foreign priority application is "hereby incorporated by reference." The statement may appear in the transmittal letter. The inclusion of the incorporation by reference of the foreign priority application will permit an applicant to amend the U.S. application to include any subject in the foreign priority application without raising the issue of new matter. Thus the incorporation by reference statement can be relied upon to permit the entering of a portion of the foreign priority application into the U.S. application when a portion of the foreign priority application has been inadvertently omitted from the U.S. application, or to permit the correction of translation error in the U.S. application where the foreign priority application is in a non-English language."

An incorporation by reference statement that specifically refers to the Korean priority document is not found in the application-as-filed.

Accordingly, the petition is dismissed.

It is also noted that on page 2 of the instant petition, petitioner mistakenly requests permission to, "substitute ***claim*** 4 of the certified copy of Applicant's Korean priority Application for the clearly incorrect Fig. 4 of the original application." (Emphasis added).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of :
Ki Hwan Kim :
Application No. 10/225,277 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. 2669-0121P :

This is a decision on the renewed petition under 37 CFR 1.182 submitted on July 5, 2005, requesting substitution of Figure 4 from the certified copy of applicants' Korean priority application no. 2002-20116 for the incorrect Figure 4 submitted with the original application-as-filed and that the application retain the August 22, 2002 filing date.

The petition is granted.

Petitioner has previously stated, in pertinent part:

> "Applicant filed the instant application on August 22, 2004. This Application included a specification consisting of 13 pages, 7 sheets of formal drawings and a certified copy of Applicant's Priority Document, Korean Patent Application Number 2002-20116. ...
>
> Unfortunately, the version of Fig. 4 that is included in the drawings filed with this U.S. Application is an incorrect figure and simply does not show the head section of the fence, which is described in the main body of the specification, and in originally filed claims 4 and 5.
>
> Under the circumstances, Applicant respectfully requests that Applicant be permitted to substitute [Fig.] 4 of the certified copy of Applicant's aforementioned Korean priority Application for the clearly incorrect Fig. 4 of the original application and that the Application with substituted Fig. 4 from Applicant's Korean priority Application be accorded a filing date of August 22, 2002.
>
> Applicant respectfully submits that it is proper to permit this substitution of Fig. 4 of Applicant's Korean priority Application for Fig. 4 of this Application and accord a filing date to the amended application that included the aforementioned substituted Fig. 4, because Fig. 4 of the certified copy of Applicant's Korean priority Application was filed on even date with this Application and is the Fig. 4 that is clearly referenced in both the

main body portion and/or claim portion of, Applicant's Specification. Applicant also respectfully submits that the interests of justice will be satisfied by permitting this substitution."

It is noted that the above-identified application was complete as filed on August 22, 2002, albeit with incorrect Figure 4. However, the application and instant petition have been reviewed and, in this instance and *on petition*, applicant may substitute Figure 4 from the certified copy of applicants' aforementioned Korean priority application for Figure 4 of the above-identified application as originally filed. Furthermore, the above-identified application with substituted Figure 4 from applicant's Korean priority application shall retain the filing date of August 22, 2002.

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

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

Conferees: Brian Hearn, Ira Lazarus

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CIMS 483-02-19
800 CHRYSLER DRIVE
AUBURN HILLS MI 48326-2757

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OFFICE OF PETITIONS

In re Application of :
Del C. Schroeder et al :
Application No. 10/225,334 :
Filed: August 21, 2002 :
Attorney Docket No. 705804US1 :

ON PETITION

This is a decision on the petition, filed August 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3617 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Paper No. _____

Date : August 17, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/225,334**

Applicant(s) : Del C. Schroeder et al
Application No. : 10/225,334
Filed : August 21, 2002

The above-identified application has been assigned Patent No. 6,779,854 and an issue date of August 24, 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 August 24, 2004:

"All reference to Patent No. 6,779,854 to Del C. Schroeder et al Michigan for COMPOSITE WHEEL AND METHOD FOR MANUFACTURING THE SAME appearing in the Official Gazette of August 24, 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: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 02202007

John L. Rogitz
Rogitz & Associates
750 B Street, Suite 3120
San Diego CA 92101

Inventor:	CANDELORE et al.	:
Application No.:	10/225,339	: ***On petition to***
Filed:	August 20, 2002	: **VACATE NOTICES OF**
Docket No.:	50P4157	: **NON-COMPLIANT BRIEF**
		:
For:	METHOD AND APPARATUS FOR DOWNLOADING DATA TO A SET TOP BOX	: ***under*** : ***37 CFR 1.181*** :

This is in response to Applicant's petition filed December 27, 2006 to have the Notices of Non-Compliant Brief mailed September 5, 2006 and December 18, 2006 vacated.

The petition is **GRANTED.**

Notices of Non-Compliant Brief were mailed on September 5, 2006 and December 18, 2006, respectively. The latter Notice is effectively a restatement of the former Notice. Applicant seeks vacatur of these Notices.

The petitioner argues that the Notices incorrectly allege that the Brief is defective for: 1) failing to present headings for each ground of rejection for review; and 2) failing to present the statutes and references with respect to the grounds of rejection being presented.

Regarding item 1: 37 CFR 41.37(c)(1)(vi) requires that the Brief contain "a concise statement of each ground of rejection presented for review". MPEP 1205.02 elaborates that "[e]ach ground of rejection must be treated under a separate heading". A review of the Appeal Brief filed August 16, 2006 reveals that the Brief, at item "6", does set forth headings identified as "a"-"h" for each ground of rejection. Moreover, such headings fully correspond to respective headings provided in section "7"

of the Brief. Accordingly, the Brief is not non-compliant for this reason.

Regarding item 2: MPEP 1205.02 explicitly states that a statement such as "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 103 over Smith in view of Jones" would comply with 37 CFR 41.37(c)(1)(vi). A review of the Appeal Brief filed August 16, 2006 reveals language acceptably similar to that identified as exemplary in MPEP 1205.02. Accordingly, the Brief is not non-compliant for this reason.

This petition is **GRANTED** and the Notices of Non-Compliant Brief mailed September 5, 2006 and December 18, 2006 are each **VACATED**.

The file has been forwarded to the Examiner for consideration of the Appeal Brief. No further response is due from Appellant at this time. A correspondence from the Office will follow in due course.

Any questions regarding this decision should be directed to Jeffrey A. Smith at 571-272-6763.

Tariq Hafiz
Director (Acting)
Technology Center 3600
571-272-5350

jas:02/20/07

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ANN S. HOBBS
VENABLE
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WASHINGTON, D.C. 20043-9998

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Stephen C. Pflugfelder et al :
Application No. 10/225,341 : NOTICE
Filed: August 22, 2002 :
Attorney Docket No. 39532-183498

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 1614.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 2, 2006

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/225381 Patent No.: 6,714,366

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RICKY MACK
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

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CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES, IA 50309-2350

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OFFICE OF PETITIONS

In re Application of :
Sawhill et al. :
Application No. 10/225,389 :
Filed: August 21, 2002 : ON PETITION
Title of Invention: :
METHOD AND APPARATUS FOR LOADING :
CASINGS ONTO THE STUFFING TUBE OF :
A SAUSAGE MAKING MACHINE :

This is a decision on the Petition to Withdraw Holding of Abandonment Based Upon Evidence that a Reply was Timely Mailed or Filed Under 37 CFR § 1.181, filed January 19, 2006.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Amendment ("Notice"), mailed January 14, 2005. The Notice set a reply period of the longer of one (1) month or 30 days from the mailing of the Notice; two months from the date of the Notice of Appeal, or within the period for reply to the action from which this Appeal was taken. Extensions of time under 37 CFR 1.136 were available. No reply having been received, the application became abandoned on February 15, 2005. A Notice of Abandonment was mailed December 19, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on February 3, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt of a copy of an appeal brief (11 pages) and Appendix (4 pages), filed March 8,

2004, and three copies of the Notice of Non-Compliance. Applicant also provides a copy of the Appeal Brief and Appendix.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3643 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shmuel Shaffer	: DECISION ON REQUEST FOR
Patent Number	: 7602704	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/225,391	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/05

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 6814316

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:

The listing of references in the specification is not a proper IDS. 37 CFR 1.98(b) requires a list of all patents, publications, applications, or other information submitted for consideration by the Office, and MPEP §609 subsection III A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Since the references were not on a 1449, they were not considered and will not be included with the patent.

Cheryl J. Tyl — SPE

3744 — Art Unit

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COZEN O'CONNOR, P.C.
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OFFICE OF PETITIONS

In re Application of	:	
Antoniou et al.	:	DECISION ON PETITION
Application No. 10/225,418	:	UNDER 37 CFR 1.78(a)(3)
Filed: 21 August, 2002	:	
Atty Docket No. CACO-103	:	

This is a decision on the petition filed on 28 April, 2004, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the amendment filed on 28 April, 2004.

The petition is **DISMISSED AS MOOT**.

The current procedure 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). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 instant case, the Office noted the claim for priority of the

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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, the $1,330.00 petition fee submitted is unnecessary. The petition fee will be refunded to counsel's deposit account, No. 50-1275, as authorized in the present petition.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at 571.272.3231. All other inquiries concerning either the examination process or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1636 for further processing.

Charles A. Pearson
Director, Office of Petitions

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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Andre Surcouf	: DECISION ON REQUEST FOR
Patent Number	: 7593620	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/225,433	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1286** 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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United States Patent and Trademark Office
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 05/17/2010

Applicant : Andre Surcouf
Patent Number : 7593620
Issue Date : 09/22/2009
Application No: 10/225,433
Filed : 08/21/2002

: 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 **1298** 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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Hollingsworth & Funk
8500 Normandale Lake Blvd., Suite 320
Minneapolis, MN 55437

Mail Date: 04/21/2010

Applicant	: Jukka Ala-Vannesluoma	: DECISION ON REQUEST FOR
Patent Number	: 7609715	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/225,434	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2092** 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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CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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MAR 0 7 2005

OFFICE OF PETITIONS

Applicant: Aebersold et al.
Appl. No.: 10/225,447
Filing Date: August 20, 2002
Title: CHEMICAL REAGENTS AND METHODS FOR DETECTION AND QUANTIFICATION OF PROTEINS IN COMPLEX MIXTURES
Attorney Docket No.: 66661-039
Pub. No.: US 2004/0038319 A1
Pub. Date: February 26, 2004

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was filed on April 22, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several mistakes as "^{17}O" is misprinted as "17O" in paragraph [0049] and "^{125}I" is misprinted as "125I" in claims 20, 39, 50, 61 and 75.

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 errors noted by requestor wherein "^{17}O" is misprinted as "17O" and "^{125}I" is misprinted as "125I" are Office errors, but the mistakes are minor typographical errors, which are clearly understandable to one of ordinary skill in reading the specification and the claims. The mistakes

[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).

are minor typographical errors which are clearly understandable from reading the specification and claims in which the term is used, as terms are not read in a vacuum and the numeral are clearly understood to be superscript. 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.

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), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MINNESOTA 55402-0903

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MAR 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Clinton M. Knudsen :
Application No. 10/225,448 : ON PETITION
Filed: August 20, 2002 :
Attorney Docket No. 2316.1719US01

This is a decision on the petition, filed March 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MINNESOTA 55402-2100

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OFFICE OF PETITIONS

In re Application of
Stephen D. Kuslich et al
Application No. 10/225,449
Filed: August 20, 2002
Attorney Docket No. 3148.01US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed October 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 29, 2005.

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

This matter is being forwarded to the Publishing Division.

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

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United States Patent and Trademark Office
P.O. Box 1450
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Date : 5/11/2010
Patent No. : 7,321,176 B2
Serial No. : 10/225,469
Inventor(s) : Strothmann
Issued : January 22, 2008
Title : **MULTI POLE ELECTRICAL MACHINE WITH REDUCED COGGING FORCE**
Docket No. : **12873/04305**

Re: Request for Reconsideration

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

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

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

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

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

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

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

ecw

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

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Sequin et al.	:	
Application No. 10/225,484	:	DECISION ON PETITION
Filed: August 20, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DEVAX.002CP1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional applications 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in the petition. The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in

this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further, the amendment included in the petition is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. Only application No. 09/580,597 was referenced in the first sentence of the specification upon filing. Therefore, the incorporation by reference sentence included in the amendment is not proper.

However, the Office will accept the priority claims as shown in the Application Data Sheet (ADS) filed with the instant petition on January 16, 2007.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3738 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition and for appropriate action on the amendment filed January 17, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/225,484	08/20/2002	3738	980	DEVAX.002CP1	14	41	6

CONFIRMATION NO. 2332
CORRECTED FILING RECEIPT
OC000000022261934
OC000000022261934

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 01/31/2007

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

Applicant(s)

Jacques Sequin, Old Windsor, UNITED KINGDOM;
Robert John Elicker, Santa Margarita, CA;
Jean-Claude Laborde, Vieille-Toulouse, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/580,597 05/30/2000 PAT 6,666,883
which is a CIP of 09/011,214 04/03/1998 PAT 6,068,655
which is a 371 of PCT/FR97/00999 06/05/1997

Foreign Applications

FRANCE 9607245 06/06/1996

If Required, Foreign Filing License Granted: 09/24/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/225,484

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ENDOPROSTHESIS DEPLOYMENT SYSTEM FOR TREATING VASCULAR BIFURCATIONS

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

DATE 5/31/07 APPLICATION NUMBER 10/225,534

DOC CODE PET.DOC. CDCIN DOC DATE ~~5/31/07~~ 6/1/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

In re Application of
Kozaczek et al.

Application Number: 10/225,534

Patent: 6,792,075
Attorney Docket Number: 4173-102
Filing Date: August 21, 2002

Issue Date: September 14, 2004

DECISION ON PETITION

This is a decision on the petition filed January 25, 2007 under 37 CFR 3.81(b) correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Pursuant to petitioner's request deposit account 08-3284 will be charged $100 certificate of correction fee pursuant to 37 CFR 1.20 (a) and the processing fee of $130.00 pursuant to 37 CFR 1.17(i).

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

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

Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

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

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Ravindra Soman, et. al. :
Application No. 10/225,586 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 42P13759 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2005, to revive the above-identified application.

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 August 23, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight November 23, 2004.

In response, petitioner submitted with the instant petition $1,500 for the petition to revive fee, $1,400 for the issue fee and $300 for the publication fee.

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 the Office of Publications for further processing into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/06

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/225598** Patent No.: **7068853**

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: _____

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2624
Art Unit

10/225598 C25

Docket 83093/TJS
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Jennifer C. Loveridge, et al.

TONESCALE ADJUSTMENT OF DIGITAL IMAGES

Patent No. 7,068,853

Issued 06-27-2006

Assignee: Eastman Kodak Company

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

Maria Langschwager

September 20, 2006
Date

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

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER RULE 322

Request is hereby made on behalf of the inventor and assignee that hereinafter-identified mistakes in the above-identified patent can be corrected by issuance of a Certificate of Correction. Such mistakes occurred in some instances as a result of the fault of the Patent Office.

The location of such mistakes in the patent, and of the corresponding correct language in the application, are as follows:

Patent Reference	Application Reference
Column 12, line 66, claim 1	Page 3, Paragraph 5(a) of the Examiner's Amendment in the Notice of Allowance dated 11/28/2005.

The Director is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

A duplicate copy of this letter is enclosed.

Respectfully submitted,

Certificate
SEP 26 2006
of Correction

Attorney for Patentee(s)
Registration No. 53,950

Thomas J. Strouse/mjl
Telephone: 585-588-2728
Facsimile: 585-477-4646
If the Examiner is unable to reach the Patentee(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

SEP 27 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,068,853
DATED: 06-27-2006
INVENTOR(S): Jennifer C. Loveridge, et al

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

| Column 12, line 66, claim 1 | --x"(i,j) is-- was omitted, should be inserted after and

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TWO NORTH MARKET STREET
SAN JOSE, CA 95113

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Mark Richard Gehring :
Application No. 10/225,658 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. CYPR-CD02118 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 13, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on April 16, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed May 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 14, 2004.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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

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

This matter is being referred to Technology Center AU 2816.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Eric Fincham
316 Knowlton Road
Lac Brome QC JOE -1VO CA CANADA

In re Application of

Nader Soltani
Application No. 10/225,668
Filed: August 22, 2002
Attorney Docket No. 2407-11A
Title: METHOD FOR CONTROL OF BACTERIAL SPOT

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FEB 2 5 2003

OFFICE OF PETITIONS

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

This is in response to the petition under 37 CFR §1.47(b) [1], filed December 12, 2002.

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

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

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The above-identified application was filed on August 22, 2002, without an executed oath or declaration and identifying Nader Soltani as the sole inventor. On September 19, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge associated with the late filing of the oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the original petition[2], along with the associated fee, the surcharge associated with the late filing of an oath or declaration, a copy of the Collaborative Research and Development Agreement (agreement), a one-month extension of time to make timely this reply, a statement of facts, a copy of the declaration which has been executed by an executive of the purported assignee[3], and a copy of an express mail label[4]. Petitioner states that a copy of the letter which was sent to the non-signing inventor has been included, yet no copy has been located in the file.

The petitioner states that a copy of the application was sent to the non-signing inventor, and that he has refused to sign the declaration on two separate occasions. Petitioner further asserts that the non-signing inventor worked for the purported assignee during the relevant time period, and that the submitted agreement establishes the purported assignee's property interest in the instant application.

Rule 47 applicant has met requirements (1) - (5) above.

Regarding the sixth requirement above, applicant has not shown sufficient proprietary interest in the present subject matter to justify the filing of the instant application.

First, it has not been shown that the non-signing inventor ever assigned his rights to EAR. Petitioner states that the non-signing inventor was employed by EAR at the relevant time[5], but it is noted that petitioner is not an agent of record. Therefore, 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. Furthermore, no assignment documents have been provided to show that Soltani assigned his rights to the application, and no Reel and Frame number where the recordation of this assignment may be found has been provided. Furthermore, there is no record in the PTO's Patent Application Location and Monitoring System of an Assignment involving this application. These facts fail to establish that the petitioner has any proprietary interest in the application at hand, and it appears that the inventor never assigned any rights in the present invention to the company[6]. If petitioner does not wish to submit a copy of the employment agreement, petitioner may also satisfy the

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2 Although the petitioner's statement of facts asserts that he is the agent of record, there are no attorneys or agents of record for this application.

3 Earth Alive Resources, Inc. (EAR).

4 The copy of the express mail label is so faint that the only portion which is legible is the "From" section. As such, it cannot constitute persuasive evidence.

5 Petition, page 1.

6 If the petitioner has a copy of the employment agreement which has been were executed by the non-signing inventor, it is suggested that it be submitted along with the renewed petition.

requirements of 37 CFR 3.73(b). See MPEP 324. Petitioner may also submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant.

Secondly, although petitioner states "it is clearly set forth in paragraphs 7.3 and 7.4 (of the agreement) that it is the right of Earth Alive Resources Inc. to apply for all patent rights concerning any inventions developed[7]," this fact is not entirely clear. The agreement refers to a joint-venture project entered into between EAR and an agency of the Canadian government. Paragraph 7.3 establishes that any intellectual property which arises out of this project shall be owned equally by the parties, in that each party to the contract shall have a 50% ownership right. Paragraph 7.4, however, sets forth that EAR will be responsible for paying all fees associated with any patent application which stems from this project, and that EAR will be the assignee of any patent application. These two paragraphs seem to conflict with one another, as it is not clear how two parties may share equal ownership of an application, yet only one of the two shall be the assignee.

Paragraph 7.4 states that should the parties discover an infringing user, each party is required to consult with the other, and should either party refuse to pay 50% of the cost of the lawsuit, the party which pays 100% may retain all of the award in excess of the royalty owed to the agency. As the parties are expected to share in both the costs and the rewards of litigation, it would appear that this paragraph suggests that each party owns the application equally.

However, paragraph 8.2 establishes that EAR has a right of first refusal to negotiate a royalty-free license for the intellectual property. EAR would not be in a position to be able to negotiate a royalty-free license from the agency if the agency did not own at least a portion of the rights to the application. Paragraph 8.3 sets forth that this right may be exercised by either EAR giving written notice to the agency that it intends to commercialize at least a portion of this application, or vice-versa. Therefore, the agency retains the right to commercialize on this application.

From these sections of the agreement, both EAR and the agency each seem to retain a 50% interest in the application. Therefore, the requirements of 37 C.F.R. 3.73(c)(2) have been met, in that this assignee of less than the entire interest has established the percentage of its ownership. However, MPEP 324(I) indicates that "where no inventor retains an ownership interest, the combination of all partial assignees is needed to conduct the prosecution of an application." Similarly, 37 C.F.R. 3.71(b)(2) requires "all partial assignees" to prosecute. As the filing of a petition to accept the declaration without the signature of the sole inventor is clearly a required step in advancing prosecution of this application, the assent of the Canadian agency will be required before this petition can be granted.

---

7 Petition, page 1.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[8]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, the submitted declaration is not in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63. It is noted that a representative of the purported assignee has executed the declaration on behalf of the non-signing inventor. First, the declaration lacks both the name of, and the pertinent information for the non-signing inventor[9]. Secondly, the citizenship for the corporate assignee is listed as "Canadian", when the declarant should have written "Canada". Finally, on the first page, the words "I am" has been crossed out with blue ink, and the words "Nader Soltani is" have been typed above. Petitioner is reminded that any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration[10]. On renewed petition, the petitioner should either provide an executed oath or declaration, or one that corrects the deficiencies set forth above.

Petitioner may reply to this letter via facsimile,[11] by hand-delivery[12], or my mail.[13]

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

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

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

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

8 See MPEP §409.03(g).
9 A declaration must list the name and pertinent information for each inventor. See MPEP 602 for further instruction.
10 MPEP 605.04(a).
11 (703) 308-6916, Attn: Office of Petitions.
12 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
13 Commissioner for Patents, Box DAC, Washington, DC 20231.

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)
7,010,143	2006-03-07	10/225,692	2002-08-22	15248.178

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	/Evan R. Witt/	Date (YYYY-MM-DD)	2010-06-24
Name	Evan R. Witt	Registration Number	32512

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7010143
Issue Date: March 7,2006
Application No. 10225692
Filed: August 22,2002
Attorney Docket No. 089206-9002

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

This is a decision on the electronic petition, filed June 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2010 . 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.

Pet. Dec.

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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	10/229,700
Filing Date	AUG. 22, 2002
First Named Inventor	JAY W. HEINECKE
Art Unit	1743
Examiner Name	MONIQUE R. COLE
Attorney Docket Number	WU-3553/1

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

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
5/24/05

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Employment contract of patent attorney has expired and responsibility for prosecution is being transferred to assignee, Washington University, St. Louis, MO.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: ☐

OR

☑ Firm or Individual Name	MICHAEL G. DOUGLAS, Ph.D., ASSOCIATE VICE CHANCELLOR AND DIRECTOR				
Address	OFFICE OF TECHNOLOGY MANAGEMENT WASHINGTON UNIVERSITY, CAMPUS BOX 8013 660 S. EUCLID AVENUE				
City	ST. LOUIS	State	MO	Zip	63110
Country	USA				
Telephone	314-274-6812		Fax	314-274-7258	
Signature	Scott J. Meyer				
Name	SCOTT J. MEYER		Registration No.	25,275	
Date	Feb. 17, 2005		Telephone No.	314-448-7639	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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FEB 17 2005

Scott J. Meyer
7700 Bonhomme, Box 325
St. Louis, MO 63105
smeyer@hdp.com
Phone: 314-446-7639
Fax: 314-446-7601

FACSIMILE TRANSMISSION

DATE: February 17, 2005

TO: **Facsimile Number:** **ATTN: Examiner: Monique T. Cole**
703-872-9306 @ GROUP ART UNIT 1743
U. S. Patent & Trademark Office (USPTO)

FROM: Scott J. Meyer, Reg. No. 25,275

RE: **S.N. 10/225,700**
Filed: 8/22/02
Inventor: Jay W. Heinecke
Title: Method for Detecting Conditions Indicative of Sepsis
Attorney Docket No.: WU-3553/1

COMMENTS: Please see attached Request for Withdrawal as Attorney or Agent and Change of Correspondence Address

Number of Pages sent: **2 (including this cover page)**

Transmitted from facsimile number **314-446-7601**

If you have any problems in the transmission of this Fax, please contact:
Scott J. Meyer at 314-446-7639, or Margaret Russell at 314-446-7630. Thank you.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Robert P. Boland	: DECISION ON REQUEST FOR
Patent Number	: 7573863	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/225,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1858** 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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Robert P. Boland	: DECISION ON REQUEST FOR
Patent Number	: 7573864	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/225,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1361** 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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Shane H Hunter Esq
Mintz Levin Cohn Ferris Glovsky and Popeo PC
One Financial Center
Boston, MA 02111

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of Frantz et al. :
Reissue Application No. 10/225,708 :
Reissue Filing Date: August 22, 2002 :
Reissue of Patent No. 6,111,876 :
Original Issue Date: August 29, 2000 :
Attorney Docket No. 24794-021 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.183 seeking waiver of 37 CFR § 1.172.

The petition is **granted.**

In view of the efforts recounted in the petition to obtain the signature of inventor Frantz, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed December 21, 2006.

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

The petition fee of $400 has been charged to petitioner's deposit account.

Technology Center Art Unit 2616 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 092804

MICHAEL G. PETIT
P.O. BOX 91929
SANTA BARBARA, CA 93190-1929

SEP 28 2004

In re Application of:
MICHAEL SCHUBACH
Serial No.: 10/225,730
Filed: August 21, 2002
Attorney Docket No.: **02SCH1**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 17, 2004.

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

The request meets all the above stated requirements. The request was signed by Michael G. Petit, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the inventor, Michael Schubach, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

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

cc: MICHAEL SCHUBACH
128 W. DE LA GUERRA
SANTA BARBARA, CA 93101

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HOLLAND & KNIGHT LLC
131 SOUTH DEARBORN
30TH FLOOR
CHICAGO IL 60603

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Ozawa et al.	:	
Application No. 10/225,733	:	ON PETITION
Filed: August 22, 2002	:	
Attorney Docket No. 075834.00147	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed December 10, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on June 11, 2003. A Notice of Abandonment was mailed December 1, 2004.

On December 8, 2004, the petition fee was increased to $1500.00. Petitioner only submitted $1330.00 towards payment of the petition fee. Accordingly, an additional $170.00 was charged to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

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Stephen B. Davis
Bristol-Myers Squibb Company
Patent Department
P. O. Box 4000
Princeton, NJ 08543-4000

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Clifford M. Bechtold :
Application No. 10/225,754 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. CT-2679 NP :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

#10

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APR 17 2003

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA CA 91101

In re Application of	:
Robert E. Reiter et al	:
Serial No.: 10/225,779	: PETITION TO MAKE SPECIAL
Filed: August 21, 2002	:
Attorney Docket No.: 30435.69	:

This is in response to applicants' petition filed March 31, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAY - 2 2003

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA CA 91101

In re Application of	:	
Robert E. Reiter et al	:	
Serial No.: 10/225,784	:	PETITION TO MAKE SPECIAL
Filed: August 21, 2002	:	
Attorney Docket No.: 30435.69	:	

This is in response to applicants' petition filed March 31, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

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

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SEP 15 2008

In re Application of	:	
Reiter et al.	:	
Application No. 10/225784	:	DECISION ON PETITION
Filed: 08/21/2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 02307K-141586US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on May 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED.**

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

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to

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

Receipt is additionally acknowledged of the amendment, filed with the present petition, also containing the delayed claim of benefit to the prior filed applications. The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted, however, 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).

Accordingly, petitioner should file a new amendment, complying with the provisions of 37 CFR 1.121, and in accordance with the Office action under Ex parte Quayle (1935 C.D. 11; 453 O.G. 213) mailed on June 3, 2008.

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 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.

The application is being forwarded to Technology Center AU 1642 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 applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/225,784	08/21/2002	1642	839	02307K-141586US	8	1

CONFIRMATION NO. 4559

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/15/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Rôbert E. Reiter, Los Angeles, CA;
Owen N. Witte, Sherman Oaks, CA;
Douglas C. Saffran, Los Angeles, CA;
Aya Jakobovits, Beverly Hills, CA;

Assignment For Published Patent Application

The Regents of the University of California

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a DIV of 09/564,329 05/03/2000 PAT 6,541,212
which is a CIP of 09/359,326 07/20/1999 ABN
which is a CIP of 09/318,503 05/25/1999 PAT 6,261,791
which is a CIP of 09/251,835 02/17/1999 PAT 6,261,789
which is a CIP of 09/203,939 12/02/1998 PAT 6,258,939
which is a CIP of 09/038,261 03/10/1998 PAT 6,267,960
which claims benefit of 60/228,816 03/10/1997 ABN
and claims benefit of 60/071,141 01/12/1998
and claims benefit of 60/074,675 02/13/1998
and said 09/359,326 07/20/1999
claims benefit of 60/113,230 12/21/1998
and claims benefit of 60/120,536 02/17/1999
and claims benefit of 60/124,658 03/16/1999

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/225,784**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

PSCA prostate stem cell antigen and uses thereof

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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BRIAN W. PETERMAN
O'KEEFE, EGAN & PETERMAN
BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN TX 78746

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard W. House, et al :
Application No. 10/225,825 :
Filed: August 22, 2002 :
Attorney Docket No. VITI:006 :

This is a decision on the petition, filed March 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2857 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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300 S WACKER DRIVE
CHICAGO IL 60606

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FEB 05 2008

OFFICE OF PETITIONS

In re
Sarah S. Bacus
Application No. 10/225,826
Filed: August 21, 2002
Attorney Docket No. 02-182

: DECISION REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed November 21, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred ninety-five (395) days to four hundred fifty (450) days.

The application for patent term adjustment is **DISMISSED**.

On August 22, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred ninety-five (395) days. On November 21, 2007, 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 four hundred fifty (450) days.

Applicant states that the patent issuing is not subject to a terminal disclaimer.

---

[1] Applicant filed the application for patent term adjustment together with the filing of the issue fee.

The Office initially determined a patent term adjustment of three hundred ninety-five (395) days based on an adjustment for PTO delay of seven hundred twenty-two (722) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delays of ninety-three (93) and ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b), and eighty-eight (88) and fifty-five (55) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of fifty-five (55) days is at issue.

A review of the application file reveals that applicants filed a supplemental Information Disclosure Statement (IDS) on July 24, 2007, after they had previously filed a response on May 30, 2007. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item contained in the Information Disclosure Statement was first cited in **a** communication from a foreign patent office in a counterpart application and this communication was not received by **an** individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received by **any** individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement."

Applicant should have mirrored the language of "first cited in any communication" and "not received by any individual" as required by § 1.704(d). Accordingly, applicant delay of fifty-five (55) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment is **three hundred ninety-five (395) days.**

If applicant wants to make the proper assertion, then applicant may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Applicant is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

Receipt of the $200 fee under 37 C.F.R. § 1.18(e) is acknowledged.

The 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 Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

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Paper No.

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OFFICE OF PETITIONS

In re Application of	:	
Sarah Bacus	:	DECISION ON APPLICATION
Application No. 10/225,826	:	FOR
Filed: August 21, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 02-182	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT PETITION UNDER 37 C.F.R. §1.705(b)," filed April 4, 2008. Applicant requests reconsideration of the decision mailed February 5, 2008, dismissing their request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred ninety-five (395) days to four hundred fifty (450) days.

The request for reconsideration is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **four hundred fifty (450)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 22, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 395 days. On November 21, 2007, 2007, applicant timely submitted an application for patent term adjustment. Applicant requested reconsideration of the

reduction of 55 days associated with the filing of an Information Disclosure Statement (IDS) on July 24, 2007. In effect, applicant maintained that the reduction pursuant to 37 CFR 1.704(c)(8) was not warranted as the IDS included a §1.704(d) statement.

It was agreed that 37 C.F.R. § 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

However, applicant's argument was not found persuasive as the IDS as filed did not include a proper 37 C.F.R. §1.704(d) statement. Applicant was advised that in order to be entitled to the exemption under §1.704(d) the IDS must contain a statement which mirrors the language of §1.704(d). Nor was the statement provided on initial application for patent term adjustment.

On instant request for reconsideration, attorney Andrew Williams has provided the required statement, certifying that with respect to the information disclosure statement filed on July 24, 2007, each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. It is noted that attorney Williams filed the IDS on July 24, 2007.

In view thereof, the reduction of 55 days is being removed.

The determination of patent term adjustment at the time of the mailing of the notice of allowance has been corrected to 450 days.

The $200.00 fee set forth in 37 CFR 1.18(e) was submitted on initial application for patent term adjustment filed November 21, 2007. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PTA Calculations for Application: 10/225826			
Application Filing Date:	08/21/2002	PTO Delay (PTO):	722
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	327
Post-Issue Petitions:	0	Total PTA (days):	450
PTO Delay Adjustment:	55		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	07/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	55		
48	08/22/2007	MAIL NOTICE OF ALLOWANCE			
47	08/20/2007	ISSUE REVISION COMPLETED			
46	08/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	08/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
44	08/20/2007	DOCUMENT VERIFICATION			
43	08/20/2007	NOTICE OF ALLOWABILITY			
42	07/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	11/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	07/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	07/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		55	35
38	07/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	07/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	06/13/2007	DATE FORWARDED TO EXAMINER			
35	05/30/2007	RESPONSE AFTER NON-FINAL ACTION		91	31
34	05/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	05/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32.7	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		88	28
		INFORMATION DISCLOSURE STATEMENT (IDS)			

32	11/24/2006	FILED			
31	11/30/2006	MAIL NON-FINAL REJECTION			
30	11/27/2006	NON-FINAL REJECTION			
29	09/12/2006	DATE FORWARDED TO EXAMINER			
28	08/28/2006	RESPONSE AFTER NON-FINAL ACTION		93	26
27	08/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	02/27/2006	MAIL NON-FINAL REJECTION			
25	02/06/2006	NON-FINAL REJECTION			
24	01/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	09/26/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/24/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	11/22/2005	DATE FORWARDED TO EXAMINER			
19	11/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
18	10/12/2005	MAIL RESTRICTION REQUIREMENT	722		-1
17	10/03/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
15.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14.7	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12.7	09/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/16/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10.7	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
9	10/11/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	11/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/25/2002	APPLICATION DISPATCHED FROM OIPE			
6	10/24/2002	APPLICATION IS NOW COMPLETE			
5	10/04/2002	ADDITIONAL APPLICATION FILING FEES			
4	10/04/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	09/19/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	08/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/21/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Bernd Scheffler :
Application No. 10/225,837 : DECISION ON PETITION
Filed: 22 August, 2002 :
Attorney Docket No. TI-31105 :

This is a decision on the petition filed on 29 June, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 March, 2006, for failure to timely reply to the non-final Office action mailed on 9 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[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 statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to Technology Center Art Unit 2611 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

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BORSON LAW GROUP, PC
1078 CAROL LANE, #200
LAFAYETTE CA 94549

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JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Frank Sieg et al.	:	
Application No. 10/225,838	:	DECISION ON PETITION
Filed: August 22, 2002	:	TO WITHDRAW
Attorney Docket No. NRNZ-1023 US1 DBB	:	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 10, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

If an assignee has ownership in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

Mail Date: 06/18/2010

Applicant	: Detlef Schwarzwald	: DECISION ON REQUEST FOR
Patent Number	: 7658982	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/225,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **644** 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. 8

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OFFICE OF PETITIONS

In re Application of :
Kuldip Randhawa :
Application No. 10/225,921 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 24752-11 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 21, 2003. Accordingly, this application became abandoned on October 22, 2003. A Notice of Abandonment was mailed on March 23, 2004.

The file is being forwarded to Technology Center 2800, for review of the amendment filed May 24, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/225,924	08/22/2002	E. Mikhail Sagal	P00541-US1	4570

3017 7590 11/05/2004

BARLOW, JOSEPHS & HOLMES, LTD.
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5TH FLOOR
PROVIDENCE, RI 02903

EXAMINER	
ZIMMER, MARC S	

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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NOV 5 2004

In re Application of E. Mikhail Sagal Serial No. 10/225,924 Filed: August 22, 2002 For: THERMALLY CONDUCTIVE ELASTOMERIC PAD AND METHOD OF MANUFACTURING SAME	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Randy Gulakowski at (571) 272-1302.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BARLOW, JOSEPHS & HOLMES
101 Dyer Street
5th Floor
Providence, RI 02903

cc: Allowed Files—Pk3-910

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HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of	:	
Peng et al.	:	
Application No. 10/225,936	:	ON PETITION
Filed: August 22, 2002	:	
Attorney Docket No. AVAN/001525	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 8, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 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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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Kao et al.	:	
Application No. 10/225,937	:	DECISION GRANTING PETITION
Filed: August 22, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 15913.31	:	

This is a decision on the petition, originally filed October 3, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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 November 13, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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 June 23, 2005 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1764 for examination in due course.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INHALE THERAPEUTIC SYSTEMS, INC.
150 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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NOV 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Hanna, et al. :
Application No. 10/225,943 : ON PETITION
Filed: August 22, 20002 :
Attorney Docket No.: 0109.10 :

This is a decision on the petition filed October 15, 2002 in response to the Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed September 13, 2002.

The Notice mailed September 13, 2002 indicated that while the application had been accorded a filing date, Figures 5, 12-16, and 19 appeared to have been omitted from the application as deposited.

In response to the Notice, petitioner alleges that the application as deposited included twelve (12) sheets of drawings as indicated by the copy of a postcard date stamped by the Office acknowledging receipt of the application papers, including twelve (12) sheets of drawings. Petitioner has also enclosed a complete set of drawings.

The original drawing sheets containing Figures 5, 12-16, and 19 submitted with the application papers have not been located. However, in view of the evidence presented, the petition to include Figures 5, 12-16, and 19 in the application is **GRANTED**.

Petitioner is entitled to a refund of the previously submitted petition fee of $130.00. Petition may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application will be processed and examined using the copies of Figures 5, 12-16, and 19 supplied on October 15, 2002. The copies of the other drawing figures filed with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 22, 2002, using the application papers filed on that date and the five (5) sheets of drawings containing Figures 5, 12A-12B, 13-16, and 18 supplied on October 15, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080707

DATE : July 07, 2008

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction on Patent No.: 7313122 B2

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

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

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

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:

The one or more corrections of mistake(s) made inadvertently the Applicant in the abstract and claims 39, 40, 47 have been considered and do not involve changes which would constitute new matter or require reexamination

SPE: 2616 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 13, 2006

TO SPE OF : ART UNIT 1752 Cynthia Hamilton

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/225,992 Patent No.: 6924078

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

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

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

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

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

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

Comments: deny- claim 5 col. 20, line 33 correction This should read claim 6

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Cynthia H. Kelly
SPE

1752
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

TERENCE P. O'BRIEN
WILSON SPORTING GOODS CO.
8700 W. BRYN MAWR AVENUE
CHICAGO, IL 60631

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Simonutti et al. :
Application No. 10/226,003 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. WG0048H :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed October 30, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 31, 2004. A Notice of Abandonment was mailed on May 17, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 34

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

MAILED

APR 04 2003

Technology Center 2600

In re Application of :
Shneyour et al. :
Application No. 10/226,073 : DECISION ON REQUEST TO
Filed: August 21, 2002 : WITHDRAW AS ATTORNEY
For: METHOD AND SYSTEM FOR :
TRANSMITTING AND RECEIVING DATA IN A :
TDMA FREQUENCY HOPPING SYSTEM
UTILIZING FREQUENCY DIVERSITY

This is a decision on the request to withdraw as attorney/agent of record filed on March 25, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent.
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: D.S.P. GROUP LTD.
5 Shenkar Street
P.O. Box 2019
Herzelia Pituach 46120
Israel

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARGARET A. DOBROWITSKY
DELPHI TECHNOLOGIES, INC.
Legal Staff, Mail Code: 480-410-202
P.O. Box 5052
Troy MI 48007-5052

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Joseph Pierre Heremans
Application No. 10/226,100
Filed: August 22, 2002
Attorney Docket No. DP-306,087

ON PETITION

This is a decision on the petition filed on January 4, 2005 under 37 CFR 1.137(b) to revive the above-identified application, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on March 22, 2004, for failure to timely submit corrected formal drawings, as required by the Notice of Allowability mailed December 19, 2003. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on December 14, 2004.

Petitioner asserts that a proper response in the form of corrected formal drawings, was timely filed with a certificate of mailing on January 9, 2004 and has submitted a copy of the corrected formal drawings and certificate of mail , asserted to have been timely filed.

A search of the application file and the USPTO records does not reveal receipt of the drawings but, the petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment mailed on December 14, 2004, is hereby withdrawn. No petition fee is due and none has been charged.

In view of the above, there is no need to treat the petition under the unintentional standard of review, 37 CFR 1.137 (b).

The application file is being forwarded to Publishing Division for a review of the drawings and to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Shiho Isumi et al :
Application No. 10/226,116 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 381HI/51414 :

This is a decision on the petition, filed December 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 November 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2632 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 16 2004

Paper No. 6

In re Application of :
Jesse B. Griggs :
Application No. 10/226,141 : DECISION ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 113100 :

This is a decision on the petition filed on July 16, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office action dated December 19, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply and a copy of a post card receipt for the filing of the reply. The post card receipt shows that the reply was in received in the Office on February 3, 2004, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is February 3, 2004. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

Paper No.: _____

DATE : 6/15/2005

TO SPE OF : ART UNIT 3700

SUBJECT : Request for Certificate of Correction on Patent No.: _____ (Application No. 10/226,153)

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.

***The cofc request to enter 1449 in IDS dated 8/20/2004 okay?**

Ernest White

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

Tel. No. 703-308-
9390 Ext. 122

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:

3755

SPE
Art Unit

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OFFICE OF PETITIONS

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of :
VAN DE WAERDT :
Application No. 10/226,158 :
Filed: August 23, 2002 :
Attorney Docket No. US02 0299 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 3, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response Under 37 C.F.R. 1.111; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of December 2, 2004 is accepted as having been unintentionally delayed.

The Power of Attorney and Appointment of New Attorney filed on August 5 and 8, 2005 pursuant to 37 CFR 3.71 are not acceptable. First, it is not apparent that the power of attorney was signed by a person having apparent authority to sign on behalf of the assignee (i.e. President/CEO) as required by 37 CFR 3.73(b)(2). Michael Marion, Authorized Representative, does not appear to have apparent authority to sign on behalf of Koninklijke Philips Electronics N.V. Additionally, the Power of Attorney does not include documentary evidence of a chain of title from the original owner to the Assignee (e.g., copy of an executed assignment submitted for recording) or a statement specifying, by reel and frame number, where such evidence is recorded in the Office as required by 37 CFR 3.73(b)(1). See also MPEP 324.II. 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 Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2188.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No. 11

STAAS & HALSEY LLP
Suite 700
1201 New York Avenue, N.W.
Washington, DC 20005

OCT -7 2003

In re Application of	:	
Noriko Satoh	:	DECISION ON PETITION
Application No.: 10/226,187	:	TO WITHDRAW THE
Filing Date: August 23, 2002	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 826.1558DD2	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on May 14, 2003. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action (a restriction requirement) mailed on October 8, 2002. A Notice of Abandonment was mailed on May 5, 2003.

Petitioner asserts that a response to the Office action of October 8, 2002 was timely submitted to the Patent and Trademark Office (PTO). To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the PTO on November 5, 2002.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on November 5, 2002 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed May 5, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on May 14, 2003 is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for appropriate action in due course.

Edward Westin

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090806

DATE :

TO SPE OF : ART UNIT

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

/SINH TRAN/
Supervisory Patent Examiner.Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 2 7 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Seiji Nagao, et al.
Application No. 10/226,205
Filed: August 23, 2002
For: **CONTROL SYSTEM FOR DIGITAL CAMERA AND CONTROL METHOD FOR THE SAME**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 27, 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 petition does not fulfill the requirement in items (5) and (6) above. For a successful petition pursuant to 37 C.F.R. §1.102 and specifically, MPEP §708.02 (VIII) Accelerated Examination, the petition must be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims and also 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. Applicant states within their petition that the European search report (relied upon satisfy item 4 above) contained relevant "X,P" references, but that these references were not provided and no discussion of patentability was provided.

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

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICES OF
HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN, PR 00918

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Ferrer et al. :
Application No. 10/226,222 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. DLA 2 :

This decision concerns the February 23, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on December 1, 2002 for failure to timely submit a properly signed oath or declaration and a specification that starts with page 1, as required by the September 30, 2002 "Notice to File Missing Parts of Nonprovisional Application."

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the items noted above and the $65 surcharge (small entity) for late filing of a proper oath or declaration;[1] (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in filing these items from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition meets the above requirements and is thus granted. The application is now complete.

The file is being forwarded to Technology Center 2100 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

[1] Paid on 8/23/02 by credit card.

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 6

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN PR 00918

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OFFICE OF PETITIONS

In re Application of
Ferrer et al.
Application No.10/226,223
Filed: August 23, 2002
Attorney Docket No. DLA 3

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed February 23, 2004 to revive the above-identified application.

This petition is hereby **Dismissed.**

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

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on September 30, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 1, 2002. A Notice of Abandonment was mailed on January 20, 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 lacks item (1). Although petitioner has provided an executed declaration, the declaration does not meet the requirements of 37 CFR 1.63 (c)(1). The declaration does not contain the mailing address of each inventor. Petitioner should submit an application data sheet or a newly executed declaration which meets all the requirement of 37 CFR 1.63. This includes providing the mailing addresses of both inventors.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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 9

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN PR 00918

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Ferrer et al. :
Application No.10/226,223 : DECISION ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. DLA 3 :

This is a decision on the renewed petition under 37 CFR §1.137(b), filed June 23, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on September 30, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 1, 2002. A Notice of Abandonment was mailed on January 20, 2004.

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

The Office acknowledges receipt of the executed declaration and the application data sheet.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN PR 00918

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JUN 22 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Miguel Ferrer et al. :
Application No. 10/226,224 :
Filed: August 23, 2002 :
Attorney Docket Number: DLA 1 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed February 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 29, 2002, for failure to timely reply to the Notice to File Missing Parts mailed on September 27, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed June 8, 2004, after the filing of the instant petition.

The reply in the form of an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and all other requirements of 37 CFR 1.137(b) have been properly remitted.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]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

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TC 3600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Neil F. Greenblum
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, Va 20191

In re application of
Wolfgang Ruff, et al.
Application No. 10/226,260
Filed: August 23, 2002
For: Headbox And Process For The Metered Addition of a Fluid Medium Into a Suspension Stream of A Headbox

: DECISION ON PETITION
: FOR WITHDRAWAL OF
: RESTRICTION REQUIREMENT
: UNDER 37 CFR 1.144

This letter is in response to the petition received on January 16, 2004 under 37 CFR 1.144 to review the propriety of the Restriction Requirement Mailed August 29, 2003.

The petition is **GRANTED.**

Background

A summary of the examiner's Office actions and the applicant's responses thereto is listed as follows:

1) On August 29, 2003 the examiner mailed a Restriction Requirement dividing the application into two distinct groups.

2) On September 24, 2003 the applicant submitted an election with traverse.

3) On November 21, 2003, the examiner made the restriction final.

4) On January 13, 2004, the applicant submitted the petition for withdrawal of the restriction requirement.

Decision

After a careful review of the application file history it is deemed that the restriction made by the examiner was improper, mainly, for the following reason: Groups I and II do not satisfy the combination/subcombination two-way condition for restriction as asserted by the examiner and required by MPEP 806.05(c). For example, the examiner has not shown that the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and that the subcombination has utility by itself or in other combinations. This becomes clear when looking at groups I and II (group I being the "headbox" of claims 1-17 and group II being the "headbox comprising a conduit" of claim 18) wherein the examiner asserts "the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination as claimed requires a conduit." Both groupings require a conduit as can be seen in group I, claim 1, line 3 and group II, claim 18, line 3, wherein it is claimed "at least one turbulence producer having at least one conduit..." In view of the above, the entire restriction will be withdrawn and the case be sent back to the examiner to examine all the claims.

Further, the election of species requirement will be withdrawn in that an examination of claims 1-17 has already been done.

Thus:

The petition filed January 13, 2004 under 37 CFR 1.144 to review the propriety of the examiner's restriction requirement of August 29, 2003 and request a withdrawal thereof is **GRANTED.**

The application will be sent back to the examiner for examination of all claims 1-18.

Robert Oberleitner, Director
Technology Center 3600
Telephone No. : (703) 308-1134

SM/CPE: 08/24/04
SM

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Paper No. None

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Patent Department (LMC/IP)
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Town Mount Royal QC H4P 2N2 CA CANADA

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OCT 3 0 2006
OFFICE OF PETITIONS

In re Application of :
Christophe Gourraud et al. :
Application No. 10/226,274 : DECISION ON PETITION
Filed: August 23, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No. P15324US2 :
Title: MAINTENANCE OF THIRD :
PARTY SERVICE'S SUBSCRIPTION :
INFORMATION :

This is a decision on the petition filed on September 7, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 20, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on July 21, 2006. A Notice of Abandonment was mailed on August 22, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication

1 See MPEP §710.02(e).

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[2].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that she has asserted that the Office communication was not received, that she has searched both the file jacket and the docket record, and she 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 her 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. The Technology Center's support staff will re-mail the communication of April 20, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 See MPEP 711.03(c).
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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OFFICE OF PETITIONS

In re Patent No. 6,777,013 :
Issue Date: August 17, 2004 :
Application No. 10/226,278 : DECISION ON PETITION
Filed: August 23, 2002 :
Title: Method And Device Of Making Dough Mixed With Cooking Oil, Fruit And Vegetable Filling :

This is a decision on the petition under 37 CFR 1.378(c), filed January 25, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 18, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and

Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the 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. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Ralph Willgohs
100 Westhill Dr.
Los Gatos, CA 95032

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Washington DC 20037

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OFFICE OF PETITIONS

In re Patent No. 6,921,399	:	
Issue Date: July 26, 2005	:	NOTICE
Application No. 10/226,280	:	
Filed: August 23, 2002	:	
Atty Docket No. A8130.0129/P129	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed October 3, 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." Accordingly, 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.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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John Q. McQuillan, Esq.
Law Offices of John Q. McQuillan
125 Crestwood Avenue
Tuckahoe, NY 10707-2208

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OFFICE OF PETITIONS

In re Application of :
Samuel Rose :
Application No. 10/226,288 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 2, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed on October 3, 2003. A Notice of Abandonment was mailed on January 14, 2005.

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

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be bona fide. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. *See MPEP 711.03(c).*

This application file is being referred to Technology Center Art Unit 1616, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

11 SEP 2003

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HANCOCK & ESTABROOK, LLP
1500 MONY Tower
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Syracuse, NY 13221-4976

In re Application of :
STANIFORTH, John Nicholas *et al* :
U.S. Application No.: 10/226,295 : **DECISION**
Filing Date: 22 August 2002 : **ON PETITION**
Attorney Docket No.: 812 P 005 : **TO CONVERT**
For: MOUTHPIECE FOR A PARTICULATE :
INHALER :

This decision is in response to applicants' petition filed on 18 November 2002 requesting to convert the above-captioned application to a national stage application of PCT/GB01/01215 pursuant to 35 U.S.C. 371.

A review of the above-captioned application file verifies that it was properly filed under 35 U.S.C. 111(a). The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111 . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the reference to 37 CFR 1.53(b) at the top of the transmittal letter filed on 22 August 2002 is clearly a conflicting instruction to process the application pursuant to 35 U.S.C. 111(a). Thus, the application was correctly accepted as a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13. Nevertheless, applicants filed the instant petition to convert to a national stage application which is treated as a petition under 37 CFR 1.182. The $130.00 petition fee has been paid.

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will **only** grant such petitions upon a showing by applicant of sufficient cause (*e.g.*, the loss of patent rights) where **no** other remedy is available.

In the present petition, applicants have not made a showing that a loss of patent rights would occur if the above-captioned application is a filing under 35 U.S.C. § 111(a).

According, the present petition is **DISMISSED** for lack of showing of sufficient cause.

This application is being forwarded to OIPE for further processing under 35 U.S.C. 111(a).

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

29 JUN 2004

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In re Application of :
STANIFORTH, John Nicholas *et al* :
U.S. Application No.: 10/226,295 :
Filing Date: 22 August 2002 :
Attorney Docket No.: 812 P 005 :
For: MOUTHPIECE FOR A PARTICULATE INHALER :

DECISION ON RENEWED PETITION TO CONVERT

This decision is in response to applicants' "Request for Reconsideration of Decision on Petition to Convert" ("Ren.Pet.") filed on 13 April 2004.

BACKGROUND

On 11 September 2003, a decision dismissing applicants' petition to convert to a national stage application was mailed. The decision indicated that a conflicting instruction was included on the transmittal letter. Therefore, the above-captioned application was properly processed as a domestic filing under 35 U.S.C. 111(a). Applicants also did not show that a loss of patent rights would occur if the application was processed under 35 U.S.C. 111(a).

On 13 April 2004, applicants filed the instant request for reconsideration of the prior decision.

DISCUSSION

In the request for reconsideration, applicants argue:

(1) 1077 OG 13 does not apply to the factual circumstances in this case.

(2) The requirement that applicant concede a loss of rights in order to obtain relief is without any basis in the applicable rules and regulations and places an untenable burden on an applicant.

1077 OG 13 Does Not Apply

Applicants claim that the regulations of 37 CFR 1.495(g) "do not require or even suggest that a transmittal sheet must also reflect treatment as a PCT application." Ren.Pet. at ¶ 3. Applicants also reference PCT Article 27(1) which states that "[n]o national law shall require compliance with requirements relating to the form or contents

of the international application different from or additional to those which are provided for in this Treaty and the Regulations." Therefore, applicants claim that a "properly cross-referenced transmittal she is not required under either the PCT Treaty of the implementing regulations. Id. at ¶ 5. Petitioners also claim that the prior decision has taken the statement concerning conflicting instructions found in 1077 O.G. 13 "out of context and clearly relates instead to an instance where cross-references to the international application in the declaration and specification are conflicting." Id. at ¶ 6.

The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111 . . .
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The reference to 37 CFR 1.53(b) at the top of the transmittal letter filed on 22 August 2002 in the above-captioned application is clearly an instruction to process the application papers as a new application under 35 U.S.C. 111, as the provisions of 37 CFR 1.53 apply only to the filing of new applications under 35 U.S.C. 111. As this instruction was in conflict with the instruction on the specification, the application was correctly processed as a regular domestic application under 35 U.S.C. 111.

Applicants insist, however, that the Office does not have the authority to provide the above procedures because there is no basis in either the PCT or the U.S. rules and regulations. Applicants' claim has been considered and rejected.

35 U.S.C. 2, *Powers and duties*, states in part:

> (a) IN GENERAL.— The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce . . .
>
> (2) may establish regulations, not inconsistent with law, which—
> (A) shall govern the conduct of proceedings in the Office;
> (B) shall be made in accordance with section 553 of title 5;
> (C) shall facilitate and expedite the processing of patent applications, . . .

This statute provides the authority for the Office to provide instructions to facilitate patent application processing. In particular, the Commissioner has determined that if there any indications that appear to conflict with the processing of an application as a national stage application, it will be processed as a domestic patent application. Notice of the conflicting instruction prohibition for national stage applications was provided to applicants with the Official Gazette Notice. In addition, this instruction is referenced in section 1893.03(c) of the Manual of Patent Examining Procedure (MPEP). Furthermore, these instructions do not add any additional substantive requirements to enter the national stage in the United States as applicants contend in the renewed petition.

The USPTO must able to identify papers to facilitate processing of applications. This instruction provides guidance to applicants that they must clearly indicate on all papers filed that there are no conflicting instructions as to which sections of the statute the papers are intended. If there are any conflicting instructions, then the application will be accepted under 35 U.S.C. 111. These instructions are provided pursuant to the authority granted the Commissioner under 35 U.S.C. 2 to facilitate and expedite patent application processing.

Petitioners also stated that section 1893.03(c) of the MPEP "specifically addresses the impact of an improperly completed transmittal letter." Id. at ¶ 7. Section 1893.03(c) of the MPEP states, In part:

> If the file wrapper does not include a properly completed Form PCT/DO/EO/903 but the face of the file indicates a filing under 35 U.S.C. 371, the application should be returned to the National Stage Processing Division of the Office of PCT Operations for certification that the application has been accepted for the national stage.

Applicants' contention is a misinterpretation of this section of the MPEP.

Section 1893.03(c) of the MPEP discusses how to identify whether an application is a U.S. national stage application. The sentence above discusses the need for the examiner to ensure that the application has completed all national stage requirements in the United States Designated/Elected Office (DO/EO/US) by ensuring that a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) was in the file. If a Form PCT/DO/EO/903 is not in the file, the application should be returned to the National Stage Processing Division of the Office of PCT Operations for certification that the application has been accepted for the national stage. This sentence has nothing to do with an improperly addressed transmittal letter.

Claiming a Loss of Patent Rights Is Without Basis

In the renewed petition, applicants admit that they "cannot claim a loss of patent rights as there are no statutory bar events that would cause such." Id. at ¶ 9. However, applicants argue that the decision mailed 11 September 2003 requesting applicants provide a showing of sufficient cause (*e.g.,* the loss of patent rights) sets forth a standard for relief that is not supported in the Patent Rules or Laws. Applicants state that "this standard places Applicant in an undue and unnecessary dilemma; either Applicant must find invalidating prior art and guarantee rejection of the application should the Petition be denied, or risk invalidity in light of intervening art by foregoing the right to an international priority date." Id.

The authority of the Office to grant a petition to convert is pursuant to 37 CFR 1.182 *Questions not specifically provided for*, which states:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, **subject to such other requirements as may be imposed**, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). (Emphasis added).

In the present situation, U.S. Statutes and Regulations do not have any specific provision for the requested action to convert an application from a 35 U.S.C. 111 application to a 371. The requirement imposed by the Office in such cases are that applicant must make a showing of a substantial reason why a conversion is needed. To avoid the loss of patent rights would be one such reason which was indicated in the prior decision. This is not the only reason that would meet this requirement.

In the renewed petition, applicants admit that they "cannot claim a loss of patent rights" at this time, but "there is no way to predict the future and what prior art might exist that is effective only after Applicant's Priority Date and before Applicant's Filing

Date." Id. This hypothetical situation is not sufficient to meet the requirement that applicant must make a showing of a substantial reason why a conversion is needed.

DECISION

For the reasons discussed above, applicants' renewed petition under 37 CFR 1.182 to convert the above-captioned application to a filing under 35 U.S.C. 371 is hereby **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since the above-captioned application and the international application (PCT/GB01/012150) designating the United States were copending on 22 August 2002. In order to obtain benefit of the earlier international application, applicants must amend the beginning of the specification of this application by inserting a proper reference to the parent international application.

Applicants are further reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicants must submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. *See* MPEP § 1896.

Applicants may also wish to file a separate national stage application of PCT/GB01/01215. A grantable petition to revive under 37 CFR 1.137(a) or (b) would be required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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WASHINGTON, DC 20006-1888

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OFFICE OF PETITIONS

In re Application of :
Shigeaki Tokutake et al :
Application No. 10/226,359 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 325772030000 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 Notice of Non-Compliant Amendment (37 CFR 1.121 (Notice)) mailed April 9, 2004. The Notice set a period for reply of one (1) month 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 May 10, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 1756.

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

cc: MORRISON & FOERSTER
1650 TYSONS BLVD., SUITE 300
MCLEAN, VA 22102

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MONROVIA CA 91016

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OFFICE OF PETITIONS

In re Application of	:
Souney et al.	:
Application Number: 10/226382	: LETTER DISMISSING PETITION
Filing Date: 08/23/2002	:
For: SEPARABLE COMPRESSION	:
SLEEVE WITH BARRIER PROTECTION	:
DEVICE AND REUSABLE COUPLER	:

This is a decision in reference to the letter filed on November 14, 2005, styled as a petition to withdraw the holding of abandonment.

The Office apologizes for the delay in responding to the present request.

This application became abandoned on October 3, 2004, for failure to timely file a reply to the non-final Office action mailed on July 2, 2004, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on March 7, 2005.

The correspondence states that the Office action was not received.

At the outset, the letter filed on November 14, 2005, is unsigned. 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 Sean J.

Soyney and Rick W. Roeder 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.

Further, a review of the record indicates no irregularity in the mailing of the Office action mailed on July 2, 2004, 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 showing that the Office action mailed on July 2, 2004, was not in fact received. However, petitioners have not met the showing required to establish nonreceipt of an Office communication. 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] "For example, if a three-month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

However, as petitioners are *pro se* applicants, the Office understands that petitioners may not keep a formal docket record system for their correspondence. Nevertheless, petitioners must provide some sort of showing explaining the manner in which petitioners receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioners must explain the system for keeping track of patent matters - where petitioners keeps the correspondence; where they writes down due dates; how they know replies are due, etc. In essence, petitioners must explain how they remind themselves of response due dates and show that the

---

[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).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

due date for the Office action mailed on July 2, 2004, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioners exercised due diligence with respect to petitioners' most important business.

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.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

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

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $770.00 for a small entity.

A copy of the Office action mailed on July 2, 2004 is enclosed for petitioners' assistance in preparing a reply to the Office action.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

Encl: Office action & PTO-948 mailed on July 2, 2004
Notice of Abandonment mailed March 7, 2005
PTO/SB/64

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. 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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/226,382	08/23/2002	Sean J. Souney		4135

7590 03/07/2005

Sean J. Souney
730 E. Los Angeles Ave
Monrovia, CA 91016

EXAMINER	
DAHBOUR, FADI H	
ART UNIT	**PAPER NUMBER**
3743	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	10/226,382	SOUNEY ET AL.	
	Examiner	Art Unit	
	Fadi H. Dahbour	3743	

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

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *02 July 2004*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Fadi H. Dahbour
Examiner
Art Unit: 3743

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Form PTO-948 (Rev. 06/03) 22638
Application No._____

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

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 11/20/02 are:

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

B. X objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)_____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)_____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)_____

___ Poor quality (half-tone). Fig(s)_____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)_____

___ Erasures, alterations, overwritings, interlineations, folds, copy machine marks not accepted. Fig(s)_____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)_____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)_____

_____Top (T) _____ Left (L)

_____Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)
REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)_____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)_____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)_____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)_____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

X Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) 1-9

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) _____

___ Solid black shading not permitted. Fig(s)_____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)_____

___ Figure legends are poor. Fig(s)_____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)_____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)_____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)_____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)_____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)_____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)_____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)_____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)_____

COMMENTS:

Reviewer John Fitzgerald Date 7/1/04

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

Attachment to Paper No. _____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
10/226,382	08/23/2002	Sean J. Souney		4135

7590 07/02/2004

Sean J. Souney
730 E. Los Angeles Ave
Monrovia, CA 91016

EXAMINER	
DAHBOUR, FADI H	

ART UNIT	PAPER NUMBER
3743	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/226,382	SOUNEY ET AL.	
	Examiner	Art Unit	
	Fadi H. Dahbour	3743	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-6* is/are rejected.

7)☒ Claim(s) *2 and 3* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 November 2002* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-6 are 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.

Claim 4 recites the limitation "the disc" in line 3. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

Claim 5 recites the limitation "the die cut" in line 3. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

Claim 6 recites the limitation "the diaphragm valve" in line 2. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Rotter.

Rotter discloses in a compression sleeve that wraps circumferentially around a limb or desired substrate (Figures 1-6, also see "around a person's waist" in line 1 of abstract) so as to position a bladder for compression via fluid entry and exit of the bladder (see "bladder 32" in line 8 of column 3, also see 32 of Figures 1-6, also see "inflatable" & "deflated" in lines 10 & 12 of column 3), a separable design where the bladder, tube and fluid coupler portion can be separated from the sleeve so reprocessing procedures on their reuse can be executed (see "as indicated in the same FIG.4 the bladder may be removable from" in lines 37-38 of column 3, also see Figure 4).

Allowable Subject Matter

5. Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reid, McCarthy et al, Grim et al and Hoster Jr. are cited to show compression sleeves and bladders.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fadi H. Dahbour
Examiner
Art Unit 3743

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P.O. Box 1450
Alexandria, VA 22313-1450
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BROOKS KUSHMAN PC
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Barry M. Fell et al :
Application No. 10/226,403 : DECISION GRANTING PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FELL 0130 PUS :

This is a decision on the petition, filed December 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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ROBERT A. HULSE
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Kang Simon et al :
Application No. 10/226,405 : NOTICE
Filed: August 22, 2002 :
Attorney Docket No. 23976-08193

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

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

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

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

This file is being forwarded to the Publishing Division.

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

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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
ONE STATE STREET, SUITE 800
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of :
YOSHIDA, et al. :
Application No. 10/226,425 : DECISION ON PETITION
Filed: August 23, 2002 : TO WITHDRAW
Attorney Docket No. **260-146** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP** has been revoked by the assignee of the patent application on October 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID A. DAGG, ESQ.**
LOTUS AND RATIONAL SOFTWARE
44 CHAPIN ROAD
NEWTON, MA 02459

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of :
Michael R. Leadbetter, et al. :
Application No. 10/226,428 :
Filed: August 23, 2002 :
Attorney Docket No. P-136-US1 :

ON PETITION

This is a decision on the petition, filed October 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 August 11, 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 1654 for further processing of the request for continued examination under 37 CFR 1.114 filed October 1, 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).

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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
10/226,435	08/22/2002	1646	1534	8792/293	6	45	1

CONFIRMATION NO. 4123

CORRECTED FILING RECEIPT

OC000000015012324

00757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 01/24/2005

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)

David M. Holtzman, St. Louis, MO;
Ronald DeMattos, Noblesville, IN;
Kelly R. Bales, Indianapolis, IN;
Steven M. Paul, Carmel, IN;
Naoya Tsurushita, Palo Alto, CA;
Maximiliano Vasquez, Palo Alto, CA;

Power of Attorney:
Adrian Murray–44251

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/226,435

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Humanized antibodies that sequester Abeta peptide

Preliminary Class

424

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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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Holtzman et al.	:	
Application No. 10/226,435	:	DECISION GRANTING PETITION
Filed: August 22, 2002	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 8792/293	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

The instant application was filed on August 22, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the intermediate PCT application was filed within twelve months of provisional Application No. 60/184,601, which was filed on February 24, 2000, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii)

and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1646 for appropriate action on the amendment submitted February 11, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed PCT application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of :
David M. Holtzman :
Application No. 10/226,435 :
Filed: August 22, 2002 :
Attorney Docket No. 8792/293 :

ON PETITION

This is a decision on the petition, filed October 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 August 10, 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]

Additionally, petitioner should comply with 37 CFR 1.4(c) when filing papers to be considered.

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

The examiner of Technology Center AU 1646 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).

#6 DW

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OFFICE OF THE DIRECTOR
TC 3600

REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P O BOX 4390
TROY, MI 48099-4390

In re application of :
William H. Bennett, et al. :
Application No.10/226,441 :
Filed: August 23, 2002
For: SORTING MACHINE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 23, 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. The delay in deciding this petition is regretted.

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(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 23, 2003 completes 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

RAR/cps: 12/30/03

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Shawn Van Asdale	: DECISION ON REQUEST FOR
Patent Number	: 7588496	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/226,446	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **846** 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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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 05/17/2010

Applicant : Shawn Van Asdale
Patent Number : 7588496
Issue Date : 09/15/2009
Application No: 10/226,446
Filed : 08/23/2002

: 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 **915** 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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Paper No.

DORSEY & WHITNEY LLP
555 CALIFORNIA STREET
SUITE 1000
SAN FRANCISCO CA 94104

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Mattson et al. : DECISION ON PETITION
Application No. 10/226,459 :
Filed: August 23, 2002 :
Atty Docket No. A-70893/MSS :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181 filed February 27, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed July 14, 2006. 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 considered filed and no extension of time considered obtained, the application became abandoned effective October 15, 2006. A courtesy Notice of Abandonment was mailed on January 19, 2007.

In response, applicants timely filed the instant petition. Applicants contend that the reply was timely filed on January 16, 2007. Applicants note that January 14 was a Sunday and January 15 was a national holiday. In support thereof, applicants submit a copy of their itemized and date-stamped return postcard and a copy of the response as originally filed.

Petitioner's evidence has been reviewed, and is 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 the items thereon on the date stamped thereon by the USPTO. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of January 16, 2007.

Further, the three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account (so was the terminal disclaimer fee accompanying the response).

Accordingly, the Notice of Abandonment mailed January 19, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The petition filed by an attorney of record is signed with a different correspondence address than the customer number address of record. A courtesy copy of this decision is being mailed to the address set forth on the petition. All future correspondence will be mailed to the correspondence address currently of record until such time as a change of correspondence address is properly filed.

Technology Center AU 1763 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on January 16, 2007.

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: MARIA SWIATEK
MORGAN LEWIS & BOCKIUS LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
SUITE 700
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Lawrence J. Ellison, Gregory C.	:	
Doherty, Jay Rossiter, David	:	
Stowell, Dimitris Nakos, Pari	:	
Bhaduri, Venkat Malla, Jane	:	
Chen, Bala Kumaresan, John E.	:	
So John, Niloy Banerjee,	:	
Srinivas Maturi, Lalitha Ganti,	:	
Ramkumar Venkataraman,	:	
Balasubramanyam Sthanikam,	:	DECISION ON TWO PETITIONS
Yuanjiang Ou, Joseph Therrattil	:	UNDER 37 C.F.R. §§1.183 and
Koonen, Harish Rawat, Muthu	:	1.48(A)
Olagappan, and Thivakaram	:	
Prakash Sivakumar	:	
Application No. 10/226,461	:	
Filed: August 23, 2002	:	
Attorney Docket No. 50277-2063	:	
Title: DATABASE SERVER WITH	:	
ENHANCED MANAGEMENT AND SELF-	:	
CONFIGURATION FEATURES	:	

This is in response to the petitions concurrently filed on April 10, 2006, requesting waiver of the requirements of 37 C.F.R. §1.48 (a)(2) so that a person can be deleted as an inventor without having first obtained a statement from this individual, attesting to the fact that the error in inventorship occurred without deceptive intention on his part.

The petition under 37 C.F.R. §1.183:

Regarding the petition under 37 C.F.R. 1.183, Petitioner has requested that the requirements of 37 C.F.R. §1.48 (a)(2) be waived. 37 C.F.R. §1.48 (a)(2) requires the submission of a statement from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Petitioner wishes to delete David Stowell, Dimitris Nakos, Jane Chen, Bala Kumaresan, Ramkumar Venkataraman, Balasubramanyam Sthanikam, Joseph Therrattil Koonen, Harish Rawat, Muthu Olagappan, and Thivakaram Prakash Sivakumar as inventors. Petitioner has supplied the required statement, and this document has been executed by each of these individuals save Mr. Rawat. Petitioner has indicated that he cannot locate this individual.

In order for a petitioner to secure the waiver of 37 C.F.R. §1.48 (a)(2), the Office requires the submission of the petition fee, a statement of the last known address of the non-signing inventor, proof that diligent efforts have been made to locate the non-signing inventor, and a declaration which complies with 37 C.F.R. §1.63.

Petitioner has submitted the petition fee and the last known address of this individual.

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor "is unavailable and cannot be found or reached after diligent effort*[1]*," Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* Petitioner sent two e-mails, and mailed a package to Mr. Rawat which came back as undeliverable. Petitioner has asserted that this individual cannot be reached after diligent effort, yet it does not appear that Petitioner undertook any effort to locate him. The actions of sending two e-mails and one package does not equate to the performance of a search. Petitioner has asserted that he cannot locate Mr. Rawat, yet it does not appear that he has looked for him. There is no indication that Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address and to send the papers to that address for consideration by Mr. Rawat[2]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail,

1 Peititon, page 2.
2 See MPEP 409.03(d).

telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.48 that this individual cannot be reached. Details of the efforts to locate him should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Finally, Petitioner has not submitted a declaration which complies with 37 C.F.R. §1.63. The declaration submitted with the present petition contains non-dated changes by joint-inventors Doherty and Banerjee. See MPEP 605.04(a).

As such, the petition under 37 C.F.R. §1.183 must be **DISMISSED**, and the requirements of 37 C.F.R. §1.48(a)(3) are not waived.

The petition under 37 C.F.R. §1.48:

Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, the processing fee set forth in § 1.17(i), and the written consent of the assignee.

Petitioner has not met the requirements of 37 C.F.R. §§1.48(a)(2) and (a)(3), in that a statement from each person being deleted as an inventor has not been provided, and pursuant to the discussion above, this requirement has not been waived. Furthermore, the declaration which has been executed by the actual inventors cannot be accepted, pursuant to the discussion above.

As such, the petition under 37 C.F.R. §1.48(a) must be **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petitions under 37 C.F.R. §§1.183 and 1.48". 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.

The mailing address is: Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

The address for hand-delivery is: Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

The facsimile number is (571) 273-8300- please note this is a central facsimile number.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

COPY MAILED

MAR 27 2007

OFFICE OF PETITIONS

In re Application of :
Lawrence J. Ellison, Gregory C. :
Doherty, Jay Rossiter, Pari :
Bhaduri, Venkat Malla, John E. :
So, Niloy Banerjee, Srinivas : DECISION ON TWO RENEWED
Maturi, Lalitha Ganti, and : PETITIONS PURSUANT TO 37
Yuanjiang Ou : C.F.R. §§1.183 and 1.48(A)
Application No. 10/226,461 :
Filed: August 23, 2002 :
Attorney Docket No. 50277-2063 :
Title: DATABASE SERVER WITH :
ENHANCED MANAGEMENT AND SELF- :
CONFIGURATION FEATURES :

This is in response to the two renewed petitions concurrently filed October 27, 2006, requesting waiver of the requirements of 37 C.F.R. §1.48(a)(2) so that a person can be deleted as an inventor without having first obtained a statement from this individual, attesting to the fact that the error in inventorship occurred without deceptive intention on his part.

The original petitions were filed on April 10, 2006, and were dismissed via the mailing of a decision on July 24, 2006.

The renewed petition pursuant to 37 C.F.R. §1.183:

Regarding the petition under 37 C.F.R. 1.183, Petitioner has requested that the requirements of 37 C.F.R. §1.48 (a)(2) be

waived. 37 C.F.R. §1.48 (a)(2) requires the submission of a statement from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. As set forth on original petition, Petitioner wishes to delete David Stowell, Dimitris Nakos, Jane Chen, Bala Kumaresan, Ramkumar Venkataraman, Balasubramanyam Sthanikam, Joseph Therrattil Koonen, Harish Rawat, Muthu Olagappan, and Thivakaram Prakash Sivakumar as inventors. With the original petition, Petitioner supplied the required statement, and this document was executed by each of these individuals save Mr. Rawat. Petitioner indicated that he could not locate this individual.

With this renewed petition, Petitioner has asserted that Mr. Rawat was located, and a complete copy of the application was provided to him, however he has refused to execute the declaration. Petitioner has provided the petition fee, a statement of the last known address of the non-signing inventor, proof that a complete copy of the application was provided to the non-signing inventor, and proof that he has refused to execute the declaration.

Petitioner has further included a corrected declaration which corrects the errors present in the declaration which was presented on original petition.

Consequently, the renewed petition pursuant to 37 C.F.R. §1.183 is hereby **GRANTED**, and Rule §1.48(a)(2) is waived as it applies to Mr. Rawat.

The petition pursuant to 37 C.F.R. §1.48:

Petitioner has submitted a renewed request to correct the inventorship that sets forth the desired inventorship change, the processing fee set forth in Rule §1.17(i), and the written consent of the assignee. Petitioner has set forth that a plurality of inventors were erroneously listed as inventors in the present application, and has requested that each of them be deleted as inventive entities.

Petitioner has met each of the requirements of Rule §1.48 but for Rule §1.48(a)(2) in that a statement has not been provided from Mr. Rawat. However, pursuant to the discussion above, this requirement has been waived as it applies to this individual.

Consequently, the renewed petition pursuant to 37 C.F.R. §1.48 is hereby **GRANTED**.

Office records have been updated to reflect the change in inventorship. A corrected filing receipt has been enclosed with this decision.

The Office of Patent Publication will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

Encl. Corrected Filing Receipt

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/226,461	08/23/2002	2165	1624	50277-2063	4	4

CONFIRMATION NO. 4371

29989
HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

CORRECTED FILING RECEIPT

OC000000023002086

Date Mailed: 03/20/2007

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

Applicant(s)

Lawrence J. Ellison, Atherton, CA;
C. Gregory Doherty, San Francisco, CA;
Jay Rossiter, Palo Alto, CA;
Pari Bhaduri, Foster City, CA;
Venkat Malla, Fremont, CA;
John John E. So, Redwood City, CA;
Niloy Banerjee, Mountain View, CA;
Srinivas Maturi, Santa Clara, CA;
Lalitha Ganti, Belmont, CA;
Yuanjiang Ou, Redwood City, CA;

Power of Attorney:

Brian Hickman--35894

Domestic Priority data as claimed by applicant

This application is a DIV of 09/240,229 01/29/1999 PAT 6,487,547

Foreign Applications

If Required, Foreign Filing License Granted: 09/10/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/226,461

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DATABASE SERVER WITH ENHANCED MANAGEMENT AND SELF-CONFIGURATION FEATURES

Preliminary Class

707

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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ALEXANDRIA, VA 22313-1450
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FEB 24 2004

Dennis H. Rainear
13400 College Valley Lane
Richmond, VA 23233

In re Application of	:	
D.B. CHAWAN	:	
Serial No.: 10/226473	:	PETITION DECISION
Filed: August 23, 2002	:	

This is in response to applicant's Petition To Make Special under 37 CFR § 1.102, filed December 1, 2003, based upon special status under MPEP § 708.02 XII.

Applicant states the application meets the standards listed under MPEP § 708.02(XII) special status for applications relating to biotechnology filed by applicants who are small entities. Applicant included a statement establishing small entity status, stated that the subject of the patent application is a major asset of the small entity, and stated that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement. Based on the statements and evidence provided it is concluded the application meets the requirements for special status under MPEP § 708.02(XII).

Applicant's petition is **GRANTED**.

Should there be any questions regarding this decision, please contact Cecilia Tsang by mail addressed to Director, Technology Center Alexandria, VA 22313-1450 or by telephone at (571)-272-0562 or by facsimile transmission at (571)-273-0562.

Cecilia Tsang for
Bruce Kisliuk
Director, TC1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of :
Paesen, et al. :
Application No. 10/226,489 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 2488-1-001CON :

This is a decision on the petition filed on February 2, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on April 25, 2005. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on August 29, 2005, made timely by obtaining a one (1) month extension of time and including a Certificate of Mailing dated August 25, 2005. However, by Advisory Action mailed November 4, 2005, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. As no proper reply was filed, the above-identified application became abandoned on August 26, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an RCE, and made the a 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. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $450.00 extension of time fee submitted with the petition on February 2, 2006 was subsequent to the maximum period obtainable for reply (October 25, 2005), this fee has been refunded to petitioner's Deposit Account No. 11-1153.

The matter is being forwarded to Group Art Unit 1645 for consideration of the RCE filed February 2, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JOHN T. MCNELI
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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NOV 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Anupam A. Bharali, et al. :
Application No. 10/226,502 : DECISION ON REQUEST
Filed: August 23, 2002 : TO WITHDRAW
Attorney Docket No. 22353-06367 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed August 19, 2005.

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

A review of the file record indicates that the power of attorney to John T. McNeli and all the other attorneys/agents associated with Customer Number 00758 was revoked by the assignee of the patent application on September 23, 2005. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

There is no outstanding Office action that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

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1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

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APR 18 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Anupam A. Bharali et al. :
Application No. 10/226,502 :
Filed: August 23, 2002 :
Attorney Docket No. 1014-175US01 :

This is a decision on the petition filed March 15, 2007 to withdraw the holding of abandonment which being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned February 16, 2007 for failure to timely the issue fee by February 15, 2007, in response to the Notice of Allowance mailed November 15, 2007. The instant petition preceded the mailing of the Notice of Abandonment mailed March 19, 2007.

Petitioner claims that the Notice of Allowance mailed November 15, 2007 was mailed to the previous attorneys of record.

A review of the file reveals however that a power of attorney and address change was filed on September 23, 2005, that the revocation and new power of attorney were acknowledged but that the address information was not updated prior to the mailing of the Notice of Allowance on November 15, 2006. Thus, the Notice of Allowance was mailed to the wrong address and as petitioners claim, not received until after the due date for payment of the issue fee.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and in view of the payment of the issue fee with the instant petition, this matter will be forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED Paper No. 3

SEP 05 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

In re Application of :
Horowitz et al. :
Application No. 10/226,504 : DECISION ON REQUEST TO
Filed: August 23, 2002 : WITHDRAW AS ATTORNEY
For: **SYSTEM AND METHOD FOR VIDEO ERROR CONCEALMENT** :

This is a decision on the request to withdraw as attorney/agent of record filed on April 2, 2003.

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

Petitioner has met all of the above.

Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer No. 22,830 are granted the request for withdraw as attorney/agent.

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: WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 4

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

MAIL

JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Michael CHANG, et al. :
Application No. 10/226,531 : DECISION ON REQUEST TO
Filed: August 23, 2002 : WITHDRAW FROM RECORD
For: ADAPTIVE BIT RATE ALLOCATION :

This is a decision on the request to withdraw as attorney/agent of record filed on December 18, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Michael Chang
DIVIO, Inc.
41 De Guigne Drive
Sunnyvale, CA 94085

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
ROOMI, Waheed M. et al. :
Application No. 10/226,546 : DECISION ON PETITION
Filed: August 23, 2002 : TO WITHDRAW
Attorney Docket No. : 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 05, 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).

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 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 has failed to honor its financial obligations), does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALI KARMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 13 2008

OFFICE OF PETITIONS

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of :
ROOMI, Waheed M. et al. :
Application No. 10/226,546 : DECISION ON PETITION
Filed: August 23, 2002 : TO WITHDRAW
Attorney Docket No. : 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 April 02, 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 John Resek on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WAHEED M. ROOMI**
4699 OLD IRONSIDES DRIVE
SUITE 300
SANTA CLARA, CA 95054

cc: **ALI KAMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 13

PERKINS COIE LLP
PATENT-SEA
P O BOX 1247
SEATTLE WA 98111-1247

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
Nagasubramaniyan Chandrasekaran :
Application No. 10/226,571 : DECISION GRANTING PETITION
Filed: August 23, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 108298668US :

This is a decision on the petition, filed July 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3723 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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BEARTRICE CAMPBELL LAMPKIN MD
9840 MONTGOMERY ROAD #1123
CINCINNATI OH 45242

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Lampkin, et al. :
Application No. 10/226,620 : ON PETITION
Filed: August 16, 2002 :
Title: Electricity Produced by CO2, :
Air, and Water

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 18, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed August 27, 2008, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on September 23, 2008. However, the Office mailed an Advisory Action on November 26, 2008, stating that the reply would not be entered because it failed to place the application in condition for allowance. Applicants filed a further Amendment on December 23, 2008, made timely by obtaining a one month extension of time.

However, this Amendment also failed to place the application in condition for allowance. The Office mailed a Notice of Abandonment was mailed on April 28, 2009. The Notice stated that the Office received the December 23, 2008 Amendment, but that it did not constitute a proper reply under 37 CFR 1.113(a).

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. An applicant should not permit the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action, such as an Advisory Action.[1]

Applicants should have ensured that the December 23, 2008 Amendment had been entered or applicants should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been February 27, 2009.

While the showing of record is not sufficient to withdraw the holding of abandonment, applicants are not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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[1] MPEP 711.03(c)(III)(C)(2).

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
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BEARTRICE CAMPBELL LAMPKIN MD
9840 MONTGOMERY ROAD #1123
CINCINNATI OH 45242

MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of :
Lampkin, et al. :
Application No. 10/226,620 : ON PETITION
Filed: August 16, 2002 :
Title: Electricity Produced by CO2, :
Air, and Water

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 24, 2009.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed August 27, 2008, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on September 23, 2008. However, the Office mailed an Advisory Action on November 26, 2008, stating that the reply would not be entered because it failed to place the application in condition for allowance. Applicants filed a further Amendment on December 23, 2008, made timely by obtaining a one month extension of time. However, this Amendment also failed to place the application in condition for allowance. The Office mailed a Notice of Abandonment on April 28, 2009. The Notice stated that the Office received the December 23, 2008 Amendment, but that it did not

constitute a proper reply under 37 CFR 1.113(a). Applicants filed a petition to withdraw the holding of abandonment on May 18, 2009. However, the petition was dismissed in a decision mailed on June 1, 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 RCE.

The application is being forwarded to Group Art Unit 3748 for consideration of the RCE, filed July 24, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Morham et al.
Application No. 10/226,629
Filed: August 22, 2002
Attorney Docket No. 5006.01

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on August 16, 2004 requesting that the PTA determination at the time of the mailing of the notice of allowance be adjusted from a determination of ten (10) days to fifty-five (55) days.

Applicants' request for reconsideration of PTA is **GRANTED.** The Office will adjust the PAIR calculation to reflect that the correct amount of PTA at the time of the mailing of the notice of allowance is **fifty-five (55) days.**

Applicants assert that the reduction of forty-five (45) days for the supplemental paper (IDS) after the response is not accurate because applicants can assert that the IDS was first submitted to the Office within thirty days of receipt by any individual designated in §1.56. See 37 CFR 1.704(d). Applicants further supplied a copy of the international search report that reflects a mailing date of the international Search report of April 21,2004. Applicants submitted the IDS on April 30, 2004.

Applicants statement meeting the requirements of 37 CFR 1.704(d) excuses the IDS as a supplemental paper filed after the initial response by applicants that is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8). Accordingly, the statement obviates applicants failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, at the time of the mailing of the notice of allowance applicants did not commit any failures to engage in reasonable efforts to conclude prosecution of the application. The Office did fail to initially act upon the action within the meaning of 35 USC 132 within fourteen months of the filing of the application, a fifty-five day delay.[2] Accordingly, at the time of the mailing of the notice of allowance the proper amount of PTA is fifty-five (55-0=55) days.

After the mailing of the notice of allowance, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuance within four months of the payment of the issue fee and other requirements being satisfied will be will be

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[1] Issue fee paid on 9-27-04

[2]The delay began on October 23, 2003, day after fourteen months from the filing of the application, until December 16, 2003 day of mailing the non-final rejection (action within the meaning of 35 USC 132).

reflected in the issue notification letter that is mailed approximately three weeks prior to the issuance of the patent.

The Office acknowledges the payment of the fee pursuant to 37 CFR 1.18(e) . No additional fees are required for this decision.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A. Fries for

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

cc: copy of adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBIN M. SILVA
DORSEY & WHITNEY LLP
SUITE 3400, FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4187

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Changming Li, et al :
Application No. 10/226,639 : DECISION ON PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A-70200-003/RMS/SRN :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on August 23, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and (365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1641 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

Karen Creasy

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

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Paper No. 8

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE CA 92612

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JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Jersey-Willuhn, et al. :
Application No. 10/226,648 :
Filed: August 23, 2002 : DECISION ON PETITION
Attorney Docket No. 1013.P002 US :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 8, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on January 21, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The petition fee of $650 has been charged to Deposit Account No. 50-2240, as authorized.

The application file is being forwarded to Technology Center 3700, Group Art Unit 3764, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vercillo et al. :
Application No. 10/226,650 :
Filed: August 22, 2002 :
Attorney Docket No. ADVENT TUBE CLIP :

This is a decision on the petition filed September 12, 2002, to accord the above-identified application a filing date of August 22, 2002, instead of August 26, 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 22, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of August 22, 2002.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 28, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No./10/226666 patent no.7133433

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Changes related to typographical error without affecting the scope of claims.

SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOSEPH A. FUCHS
ROCKEY, DEPKE & LYONS, LLC
233 S. WACKER DRIVE
SUITE 5450, SEARS TOWER
CHICAGO, IL 60606-6306

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Larissa V. STRELCHENKO	:	
Application No. 10/226,671	:	DECISION ON PETITION
Filed: August 23, 2002	:	TO WITHDRAW
Attorney Docket No. 115960.00003	:	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 11, 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 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 was signed by Joseph A. Fuchs on behalf of the attorneys of record associated with Customer No. 73743 .

The attorneys of record associated with Customer No. 73743 have been withdrawn.

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

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office

will be directed to the inventor at the first copied address below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: LARISSA V. STRELCHENKO
720 COLUMBIA AVENUE
DEFOREST, WISCONSIN 53532

cc: DR. YURI VERLINSKY
2825 NORTH HALSTED
CHICAGO, IL 60657

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Mark E. Thompson et al :
Application No. 10/226,674 : NOTICE
Filed: August 23, 2002 :
Attorney Docket No. 10020/24302 :

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 1774 for examination in due course.

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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THERAVANCE INC
901 GATEWAY BLVD
SOUTH SAN FRANCISCO CA 94080

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JAN 19 2006

OFFICE OF PETITIONS

In re Application	:	
Schmidt, et al.	:	
Application No. 10/226,676	:	DECISION ON APPLICATION
Filed: August 23, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. P-135-US1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (37 C.F.R. § 1.705)" filed December 8, 2005.[1] Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred twenty-two (322) days to four hundred eighteen (418) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred eighteen (418) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 21, 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 three hundred twenty-two (322) days.

---

[1] This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and prior to payment of the issue fee.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three twenty-two (322) days based on an adjustment for PTO delay of four hundred eighteen (418) 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 ninety-six (96) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(c)(7). The PTO delay of 418 days has been reviewed and found to be correct. The adjustment of 96 days is at issue.

The adjustment of 96 days has been found to be incorrect. The Office mailed a Restriction Requirement on December 14, 2004. Applicants filed a response on December 23, 2004. However, the Office mailed a Notice of Non-Responsive Communication on March 23, 2005. Applicant filed a response on March 29, 2005, and was assessed delay of 96 days pursuant to 37 C.F.R. 1.704(c)(7). In his response, applicant argued that the December 23, 2004 response was proper, and that the Notice of Non Responsive Communication was mailed in error. The next action taken by the Office was the mailing of a non-final Office action on June 14, 2005. While the Office never withdrew the Notice of Non-Responsive Communication, based on a review of the record it is concluded that the Notice was mailed in error. Accordingly, applicant should not have been assessed any delay for responding to the Notice of Non-Responsive Amendment.

In view of the above, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **four hundred eighteen (418) days** (418 days of PTO delay, and 0 days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-0344, as authorized.

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

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

Kery A. Fries

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

Enclosure: Copy of Revised PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/21/07 Paper No.: _____

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/226697 Patent No.: 7055069 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Robert W. Beausoliel, Jr. 2113
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Megerle :
Application No. 10/226,702 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. LMC-41 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and submit formal drawings within three (3) months of the July 25, 2006 mailing of the Notice of Allowance and Fee(s) Due and the Notice of Allowability. Accordingly, this application became abandoned on October 25, 2006 at midnight. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, a completed PTOL-85B, and formal drawings, an acceptable statement of the unintentional nature of the delay in responding to the July 25, 2006 Notices, and the petition fee.

The petition is **granted**.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

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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Paper No. 8

Gerald H. Kiel, Esq.
Reed Smith LLP
599 Lexington Avenue
New York NY 10022-7650

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
Grell et al. : DECISION GRANTING PETITION
Application No. 10/226,705 :
Filed: August 22. 2002 :
Attorney Docket No. GK-EIS-1053/ :
500593.2004 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 2004, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed on November 25, 2003, which set a three-month shortened statutory period to reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on February 26, 2004. The present petition precedes the mailing of a Notice of Abandonment.

Petitioner failed to make the proper statement of unintentional delay. However, the Office will construe petitioner's statement to mean that the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

The petition is granted.

This application is being forwarded to Technology Center 2600.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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JUL 2 8 2004

OFFICE OF PETITIONS

BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877

In re Application of
Eckhart Bauer et al.
Application No. 10/226,710
Filed: August 23, 2002
Attorney Docket No.: 1/1250US
Title: NEW DIHYDROPTERIDINONES, PROCESSES FOR PREPARING THEM AND THEIR USE AS PHARMACEUTICAL COMPOSITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed May 6, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on May 5, 2004.

With the instant petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the submission of the issue, publication, and petition fees, and has made the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

After this decision is mailed, the application will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 15 2006

VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON TX 77002-6760

In re Application of
Parikh et al.
Serial No.: 10/226,711
Filed: August 23, 2003
Attorney Docket No.: REL494/4-001US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.181, filed on December 19, 2005 with a duplicate copy faxed on February 6, 2006, to request the supervisory authority of the Commissioner in a matter involving an *ex parte* restriction requirement.

BACKGROUND

A review of the file history shows that the application was filed under 35 USC 111 on August 23, 2002 with 47 claims.

A requirement for restriction was mailed to applicants on March 24, 2004. In this paper, the examiner restricted the 47 claims into four different groups:

> Group I, claims 11-17, 21-25, 26-28 and 32-33, drawn to a method of establishing a cell line (non-embryonic) from inner cell mass (ICM) of human blastocyst by culturing the ICM cells on a feeder layer, classified in class 435, subclass 373.
> Group II, claims 11-17, 21-25, ~~26-28~~, 29-31 and 32-33, drawn to a method of establishing a cell line (non-embryonic) from inner cell mass (ICM) of human blastocyst by culturing the ICM cells under feeder free conditions, classified in class 435, subclass 383.
> Group III, claims 18-20, 34-37 and 38-46, drawn to a method of establishing a human embryonic stem cell line (hESC) from inner cell mass (ICM) of human blastocyst by culturing the ICM cells on a feeder layer, classified in class 435, subclass 373.

Group IV claims 38-42 and 47-57, drawn to a method of establishing a human embryonic stem cell line (hESC) from inner cell mass (ICM) of human blastocyst by culturing the ICM cells under feeder free conditions, classified in class 435, subclass 383.

On May 26, 2005, applicants elected with traverse the claims drawn to Group I, claims 11-17, 21-25, 32-33 and 38-42 those methods involving the use of a feeder layer.

On August 9, 2005, the examiner acknowledged the election of Group I, claims 11-17, 21-25, 32-33 and 38-42 and further considered the traversal and found applicants arguments non-persuasive and made the restriction requirement FINAL, in the paper of November 26, 2004. A first office action on the merits was also mailed as a part of this same communication, in which claims 11-17, 21, 24-28 and 32-33 were rejected under 35 USC 103(a).

In response to the non-final rejection of August 9, 2005, applicants responded with the instant petition and accompanying arguments and amendments of the claims on December 19, 2005.

DISCUSSION

The application, file history and petition filed on December 19, 2005 under 37 C.F.R. 1.181, to request review of the restriction requirement has been considered.

Applicants traversed the above restriction requirement between the groups, on the basis that all groups of claims encompass methods for establishing hES (human embryonic stem) cell lines from a human blastocyst.

Applicants argued that the claims in Group I are generic claims to all the groups, and feeder layer and feeder free conditions are two different species of these generic claims. A subsequent Office Action dated August 9, 2005, acknowledged Applicants' response, but nevertheless maintained the restriction requirement. Applicants emphasize that the broad term "cell line" as used in the claims of groups I and II necessarily include hES cell lines (as set forth in the claims of Groups III and IV), as well as cell lines differentiated from hES cell lines. Applicants submit that therefore, claims 11-17, 21-25, 32-33, and 38-42 are generic to the claims in Groups II-IV.

In addition, applicants assert that feeder layer and feeder free conditions are two different patentably distinct species of the generic claim. Applicants further, alternatively, assert that claim 11 in Groups I and II is a linking claim and thus the claim is subject to the associated practice.

Applicants complete argument has been carefully considered and found to be persuasive with respect to the restriction between groups I and III and the restriction between groups II and IV. Accordingly, those methods for establishing hES cell lines from a human blastocyst drawn to both non-embryonic and embryonic cell lines are

rejoined on the basis that the methods of groups III and IV (embryonic) are encompassed by the methods of groups I and II (embryonic), respectively.

Further, claim 11 link(s) inventions I through IV. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 11. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. Claims that require all the limitations of an allowable linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant(s) are advised that if any claim(s) including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Accordingly, the restriction requirement between elected group I and group III is hereby withdrawn and claim 11 links the claims of elected groups I and III and nonelected groups II and IV.

DECISION

For these reasons, the petition under 37 C.F.R. 1.181 requesting review of the restriction requirement and requesting rejoinder of groups II through IV with the elected group I is **GRANTED-IN-PART**. Accordingly, the claims of group III have been rejoined with the elected group I and the restriction requirement between the groups is subject to the nonallowance of the linking claim(s), claim 11. The restriction requirement between groups I and III (methods using a feeder layer) and groups II and IV (methods using feeder free conditions) is maintained for the reasons of record.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on February 16, 2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Marianne Seidel, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

George Elliot
Director, Technology Center 1600

SPE J. Richter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/226,745

Paper No.: _____

DATE : 9/9/05

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6900366

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1600

SPE | **Art Unit** 1621

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CHARLES N.J. RUGGIERO
OHLANDT, GREELEY, RUGGIERO & PERLE
10TH FLOOR, ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Anthony D. Gonzalez et al :
Application No. 10/226,757 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 682.0025USQ :

This is a decision on the petition, filed March 30, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that difference matters are handled by different branches of the Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. *Note* 37 CFR 1.4(c).

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

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : March 31, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Anthony D. Gonzalez et al
Application No. : 10/226,757
Filed : August 23, 2002

The above-identified application has been assigned Patent No. 6,875,424 and an issue date of April 5, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 5, 2005:

"All reference to Patent No. 6,875,424 to Anthony D. Gonzalez et al of Waldwick, NJ for PHOTOSTABLE SUNSCREEN COMPOSITIONS AND METHODS OF STABILIZING appearing in the Official Gazette of April 5, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 7

HAYNES AND BOONE
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Guanghan Xu	:	
Application No. 10/226,767	:	DECISION GRANTING PETITION
Filed: August 23, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 28999.75	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2003, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 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 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 March 11, 2004 accompanies this decision on petition.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b). Therefore, the terminal disclaimer filed with the petition will not be processed.

Pursuant to petitioner's authorization, Deposit Account No. 08-1394 was charged $665.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

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

This application is being forwarded to Technology Center Art Unit 2664 for examination in due course.

Frances Hicks

Frances Hicks
Lead 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

BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075-1238

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Barry M. Fell et al :
Application No. 10/226,779 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. SLZO:0020-1 IOI-277-CIP4-

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of :
Ling Li, et al. :
Application No. 10/226,799 : ON PETITION
Filed: August 21, 2002 :
Attorney Docket No. 021227-000110US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **DISMISSED** as moot.

A further review of the file indicated that the petitioner had given the office authorization to charge any and all fees during the pendency of the application at the time this application was filed. Therefore the case is not abandoned.

An extension of time under 37 CFR 1.136 wad filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on January 25, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition for extension of time filed February 9, 2006 was charged to the deposit account was an overpayment of the extension of time needed. The difference of $165 has been refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the April Wise at (571) 272-1642.

The case is being referred back to the Office of Publication for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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ROY A EKSTRAND
STE 150
3158 REDHILL AVE
COSTA MESA CA 92626

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of
Willie E. Rogers :
Application No. 10/226,804 : DECISION ON
Filed: August 23, 2002 : PETITION
Attorney Docket No. 02521 :

This is in response to the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed October 22, 2004. This Office action set a period for reply of three month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 23, 2005. A Notice of Abandonment was mailed on May 16, 2005.

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 file is being forwarded to Group Art Unit 1744 for consideration of the amendment filed September 2, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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FEB 17 2004

OFFICE OF PETITIONS

In re Reissue Application of Patent No. 6,108,005 :
Reissue Application No. 10/226,807 :
Filed: August 22, 2002 : ON PETITION
Attorney Docket No. 8937.0001-00 :

This decision concerns the May 9, 2003 "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and the May 14, 2003 "Request for Refund under 37 CFR 1.26."

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

Upon filing of the instant reissue application, counsel informed the USPTO that Patent No. 6,108,005 was involved in litigation. Accordingly, the February 26, 2003 non-final Office Action set forth an un-extendable 1-month period for reply. No reply was filed on or before March 26, 2003. The reissue application became abandoned on March 27, 2003. On May 7, 2003, while the application was abandoned, a response to the February 26, 2003 non-final Office Action was filed along with a request for a 2-month extension of time and the $205 extension-of-time fee.

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the required reply to the Office action, unless previously filed; (2) the $650 petition fee (small entity); and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional. The §1.137(b) petition meets all the requirements and is thus granted.

However, an extension of time under 37 CFR 1.136 may only be obtained prior to expiration of the maximum extendable reply period.[1] In the instant case, no extension of time was allowed beyond the initial 1-month reply period. The May 7, 2003 request for extension of time was thus inappropriate. The $205 extension-of-time fee has been credited to Deposit Account No. 06-0916 as authorized.

The file is being returned to Technology Center 2600 for further examination.

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

RC Tang
Petitions Attorney
Office of Petitions

---

[1] See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

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.

MARLANA TITUS
6005 RIGGS ROAD
LAYTONSVILLE, MD 20882

COPY MAILED

NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Kruger et al.	:	
Application No. 10/226,808	:	DECISION ON PETITION
Filed: August 23, 2002	:	
Atty Docket No. H&U113	:	

This is a notice regarding your letter received October 5, 2005, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

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

The instant request included an itemization and payment of $420 for the deficiency in payment of the statutory basic filing fee and $65 for the deficiency in payment of the late surcharge.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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

MAILED

MAR 25 2003

Office of the Director
Group 3600

David A. Greenlee
P.O. Box 340557
Columbus, OH 43234-0557

Paper No. 4

In re application of
Robert S. Showghi et al.
Application No. 10/226,822
Filed: August 23, 2002
For: REMOTE ORDERING SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 17, 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**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 3/19/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/07

Paper No.: _____

TO SPE OF : ART UNIT 3625 (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/226822 Patent No.: 6873970

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

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

Please complete the response (see below) and forward the completed response to scanning using document code COCX. Please review request for 3rd time — Thank you!

2nd Submission

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

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

Comments: Proposed additions of "means for" in claims 1 and 9, and "providing" in claim 4 changes scope of claims.

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/07

Paper No.: _____

TO SPE OF : ART UNIT 3625 (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/226822 Patent No.: 6873970

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

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

Please complete the response (see below) and forward the completed response to scanning using document code COCX. Please review request for 3rd time — Thank you!

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

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

Comments: Proposed addition of "mean for" language to claims 1 and 9 changes scope of claims.

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WALLENSTEIN & WAGNER, LTD.
311 SOUTH WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606

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JUL 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Lagro, Phillip A.	:	
Application No. 10/226,834	:	ON PETITION
Filed: August 23, 2002	:	
Attorney Docket No. 5932 P 002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment and an Information Disclosure Statement; (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 2800 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/08

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10226856 Patent No.: 7295240 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Changes do not effect scope of claims.

NGOC-YEN VU
SUPERVISORY PATENT EXAMINER 10/17/08

SPE **Art Unit** 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/08

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10226856 Patent No.: 7295240 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE _____ **Art Unit** 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Mark E. Thompson et al
Application No. 10/226,861
Filed: August 23, 2002
Attorney Docket No. 10020/24502

NOTICE

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

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

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

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

This file is being forwarded to Technology Center AU 1774.

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

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DATE: September 14, 2008
TO: Certificates of Correction Branch
FROM: Rena L. Dye
SPE, Art Unit 1794

SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,078,113 as specified on the attached Certificate.

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794

Rena L. Dye, SPE
Art Unit 1794

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,078,113
Patented: July 18, 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:

Bert Alleyne
Mark E. Thompson
Xiaofan Ren
Peter Djurovich
Haiping Hong
Stephen R. Forrest
Chihaya Adachi

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794

Rena L. Dye
Supervisory Patent Examiner
Art Unit 1794

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FENWICK & WEST LLP
SILICON VALLEY CENTER
701 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Kang Simon et al :DECISION ON PETITION UNDER
Application No. 10/226,873 : 37 CFR 1.313(c)(3)
Filed: August 22, 2002 :
Attorney Docket No. 23976-08194 :

This is a decision on the petition, filed March 14, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

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

As to petitioner's request for a refund of the issue fee, petitioner's attention is directed to MPEP §1308.01 which states that a refund may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution.** However, in the instant application, the examiner has not reopened prosecution of the application. Also, note 37 CFR 1.26 which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

The payment of the issue fee was owed and required by law at the time of payment thereof. Therefore, payment was not made by

payment as contemplated by 37 CFR 1.26. For these reasons, the $1,400 issue fee submitted is not refundable. While the $30 advance order fee was not paid by mistake, this fee was not owing or required at the time of payment thereof. Accordingly, the $30 advance order fee will be credited to petitioner's Deposit Account No. 19-2555.

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

The matter application is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

GREGORY SCOTT SMITH
3900 NEWPARK MALL ROAD, SUITE 317
NEWARK, CA 94560

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JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Seong Kang et al :
Application No. 10/226,874 :
Filed: August 22, 2002 :
Attorney Docket No. 139-012CIP :

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 2600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUN 09 2004

OFFICE OF PETITIONS

In re Application of :
William R. McCoskey Jr., et al. :
Application No. 10/226,922 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 7784-000504 :

This is a decision on the petition, filed June 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 May 10, 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 3641 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 9, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : William R. McCoskey Jr., et al.
Application No. : 10/226,922
Filed : August 23, 2002

The above-identified application has been assigned Patent No. 6,752,354 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. 6,752,354 to WILLIAM R. MCCOSKEY JR., ET AL. of WASHINGTON for INTEGRALLY STIFFENED AXIAL LOAD CARRYING SKIN PANELS FOR PRIMARY AIRCRAFT STRUCTURE AND CLOSED LOOP MANUFACTURING METHODS FOR MAKING THE SAME appearing in the Official Gazette of June 22, 2004, should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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United States Patent and Trademark Office
P.O. Box 1450
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ETHAN D. CIVAN
DECHERT
4000 BELL ATLANTIC TOWER
1717 ARCH STREET
PHILADELPHIA, PA 19103

COPY MAILED

MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Ayala Barak :
Application No. 10/226,927 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 283022-101 :

This is a decision on the petition, filed March 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1724 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

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PRO-TECHTOR INTERNATIONAL
20775 Norada Court
Saratoga CA 95070-3018

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Gau et al. :
Application No.: 10/226970 : ON PETITION
Filing or 371(c) Date: 08/22/2002 :
Attorney Docket Number: 1291037 :

This is a decision on the "Petition to Revive Unavoidably Abandoned Application," filed December 3, 2007. The petition is properly treated under 37 C.F.R. § 1.137(a). The delay in treating this petition is regretted.

This Petition is hereby 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 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 23, 2007.

Applicant files the present petition and includes the necessary statement(s) and a copy of the docket records. Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence. Accordingly, the petition is granted.

Applicant has also filed a reply to the Office action. The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper showing of unavoidable delay.

The application will be referred to 1744 for processing of the reply, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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

Lyon & Lyon LLP
633 West Fifth Street
Suite 4700
Los Angeles, CA 90071

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Dao Min Zhou :
Application No. 10/226,976 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 54693.8001.US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on August 6, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on November 7, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Scott Dunbar appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Dunbar desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a "Power of Attorney and Correspondence Address Indication Form" was provided with the petition, a certificate under 37 CFR 3.73(b) was not. In view thereof, the power of attorney cannot be accepted at this time. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until a § 3.73(b) certificate is received.

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

The application file is being referred to Technology Center 1700.

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

cc: Second Sight, LLC
12744 San Fernando Road
Building #3
Sylmar, CA 91342

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P.O. Box 1450
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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of
Martin Kiesel et al
Application No. 10/226,979
Filed: August 23, 2002
Attorney Docket No. 2002P09052US/1140668-001

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the following prior-filed nonprovisional applications: 09/950,848; 09/950,726; 09/950,723; 09/950,731; 10/052,293; and 10/646,402.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit

claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

The claim for priority to the above-noted nonprovisional applications appearing in the body of the petition fails to state the relationship of those applications to the instant application. Further, the claim for priority must be set forth as an amendment to the first line of the specification in a separate paper and comply with the provisions of 37 CFR 1.121. Alternatively, the claim for priority to the above-noted nonprovisional applications may be set forth in an Application Data Sheet (ADS) in accordance with the provisions of 37 CFR 1.76(b)(5) and 37 CFR 1.121.

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 either an amendment or ADS (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which states the relationship of the prior-filed applications to the instant application is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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DEC 2 8 2005

OFFICE OF PETITIONS

In re Application of
Martin Kiesel et al
Application No. 10/226,979
Filed: August 23, 2002
Attorney Docket No. 2002P09052US/1140668-001

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)
:

This is a decision on the renewed petition, filed November 17, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the following prior-filed applications: 09/950,848; 09/950,726; 09/950,723; 09/950,731; 10/052,293; and 60/305,199.

The petition is **GRANTED**.

The present 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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

37 CFR 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3) and 1.78(a)(6). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

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

This matter is being referred to Technology Center Art Unit 2125 for appropriate action on the amendment submitted November 17, 2005, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 7

Robert A. Parsons
340 East Palm Lane
Suite 260
Phoenix, AZ 85004

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Douglas L. Jones, et. al. :
Application No. 10/226,991 :
Filed: August 23, 2002 :
Attorney Docket No. 4064-A1C :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed October 7, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight December 7, 2002.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee and eight (8) sheets of drawings containing Figures 1-13.

It is noted that the petition was intended to be signed by counsel, Robert Parsons, however, the petition is not signed. Since the instant petition contains a Certificate of Mailing under 37 CFR 1.8 and a signature by counsel, the signature on the Certificate of Mailing will be construed as the necessary ratification of the unsigned petition.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of :
Martin J. Rotter et al. :
Application No. 10/227,005 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. ROT-PT032.2 :

This is a decision on the petition filed September 22, 2005 under 37 CFR 1.8(b) and 1.182, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

The application was held abandoned on August 19, 2004 for failure to file a timely response to the non-Final Office Action mailed May 18, 2004, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 17, 2004.

Petitioner asserts that a proper response, was filed via facsimile transmission on August 17, 2004. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of facsimile transmission pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3724 for appropriate action on the amendment filed August 17, 2004, a copy of which was submitted September 22, 2005 with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 13 2004

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CATALYST LAW GROUP, APC
4330 LA JOLLA VILLAGE DRIVE SUITE 220
SAN DIEGO CA 92122

In re Application of	:
Peter Grandics	:
Serial No.: 10/227,006	: STATUS LETTER
Filed: August 23, 2002	:
Attorney Docket No.: 37865.00003.C1P1	:

This is in response to applicant's attorneys' request, filed June 9, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicant's 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 Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number 703-872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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HUFFMAN LAW GROUP
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry et al :
Application No. 10/227,008 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. CNTR.2190 :

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

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

The examiner of Technology Center AU 2183 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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MAR 0 8 2007

OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry et al :
Application No. 10/227,008 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. CNTR.2190 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2183 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

MORGAN & FINNEGAN LLP
345 PARK AVENUE
NEW YORK, NY 10154

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Yukichika ICHIHASHI :
Application No. 10/227,011 : DECISION GRANTING
Filed: August 22, 2002 : PETITION
Attorney Docket No. 1232-4904 :

This is a decision on the petition filed September 19, 2002, requesting that the above-identified application be accorded a filing date of August 22, 2002, rather than the presently accorded date of August 23, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 22, 2002 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 186621109 US showing a handwritten "date-in" of August 22, 2002, as well as a New York, NY USPS receipt stamp dated August 22, 2002. The same Express Mail mailing receipt number appears on the original transmittal cover sheet for the subject patent application and includes a statement of express mailing pursuant to the provisions of 37 CFR 1.10.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on August 22, 2002. Accordingly, the instant application is entitled to a filing date of August 22, 2002 and has been so accorded.

The petition for a filing date of August 22, 2002 is **granted**.

This application is being returned to the Office of Initial Patent Examination for processing with a filing date of August 22, 2002 and for mailing of a corrected Filing Receipt.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC102
OCT 31 2002
PATENT & TRADEMARK OFFICE

11-01-02

MP #

PATENT
Docket No. 4363-4008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Jiacheng Yang	Group Art Unit: TBA
Serial No.	:	10/227,012	Examiner: TBA
Filed	:	August 22, 2002	
For	:	MOLECULAR CONSTRUCTS AND METHODS OF USE FOR DETECTION OF BIOCHEMICAL REACTIONS	

RESPONSE TO NOTICE TO FILE MISSING PARTS
OF NONPROVISIONAL APPLICATION

Commissioner for Patents
Washington, D.C. 20231
Attn: BOX MISSING PARTS

Sir:

In response to the Notice to File Missing Parts of Application, dated September 23, 2002, submitted herewith is the Oath or Declaration and late filing fee ($65.00). Also enclosed is a copy of the Notice to File Missing Parts.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 13-4500. Order No. 4363-4008. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Date: October 31, 2002

Kenneth H. Sonnenfeld
Registration No. 33,285

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154
(212) 758-4800
(212 751-6849 Telecopier

Express Mail No.: EU556131460US

OIPE JC102 OCT 31 2002 PATENT & TRADEMARK OFFICE

Docket No. 4363-4008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jiacheng Yang

Group Art Unit: To be assigned

Serial No.: 10/227,012

Examiner: To be assigned

Filed: August 22, 2002

For: MOLECULAR CONSTRUCTS AND METHODS OF USE FOR DETECTION OF BIOCHEMICAL REACTIONS

EXPRESS MAIL CERTIFICATE

Express Mail Label No.: **EU556131460US**

Date of Deposit: **October 31, 2002**

I hereby certify that the following attached paper(s) and/or fee

1) Response to Notice to File Missing Parts of Nonprovisional Application (1 page);
2) Executed Combined Declaration and Power of Attorney (9 pages);
3) Transmittal of Declaration Pursuant to 37 C.F.R. §1.63 (1 page);
4) Check in the amount of $65.00;
5) Copy of Notice dated September 23, 2002 (2 pages), and;
6) Return Receipt Postcard.

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to Commissioner for Patents, Attn: BOX MISSING PARTS, Washington, DC 20231

Jafet N. Cotto
(Typed or printed name of person mailing papers(s) and/or fee)

(Signature of person mailing paper(s) and/or fee)

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053
(212) 758-4800 Telephone
(212) 751-6849 Facsimile

OIPE JC102 OCT 31 2002 PATENT & TRADEMARK OFFICE

Docket No. 4363-4008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jiacheng Yang

Group Art Unit: TBA

Serial No.: 10/227,012

Examiner: TBA

Filed: August 22, 2002

For: MOLECULAR CONSTRUCTS AND METHODS OF USE FOR DETECTION OF BIOCHEMICAL REACTIONS

TRANSMITTAL OF DECLARATION PURSUANT TO 37 C.F.R. §1.63

Commissioner for Patents
Washington, DC 20231

Sir:

Transmitted herewith is a declaration pursuant to 37 C.F.R. §1.63 for the above-identified application.

The surcharge, pursuant to 37 C.F.R. §1.16(e), for filing a declaration on a date later than the filing date of the application is a follows:

- ☐ Filing by other than a small entity ($130)
- ☒ Filing by a small entity ($65)
- ☒ A check in the amount of $65.00 to cover the surcharge fee is enclosed.
- ☐ Charge surcharge fee to Deposit Account No. 13-4500, Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4363-4008. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: October 31, 2002

By: _____
Kenneth H. Sonnenfeld
Registration No. 33,285

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053
(212) 758-4800 Telephone
(212) 751-6849 Facsimile

Express Mail No.: EU556131460US

#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
10/227,012	08/22/2002	Jiacheng Yang	4363-4008

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

CONFIRMATION NO. 5875

FORMALITIES LETTER

OC000000008830192

Date Mailed: 09/23/2002

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.

11/04/2002 WABDELR1 00000044 10227012
01 FC:2051 65.00 OP

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7591726	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **675** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

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

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MAR 29 2004

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick :
Application No. 10/227,057 : NOTICE
Filed: August 22, 2002 :
Attorney Docket No. 067083.0181 :

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 3673.

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

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

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Steven J. Simske :
Application No. 10/227,076 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 10007194-1 :

This is a decision on the petition, filed August 22, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was received by the deciding official after September 12, 2006, the date upon which the above-identified application issued as U.S. Patent No. 7,106,905. The application and petition were referred to the Office of Petitions on September 22, 2006.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received in the Office of Petitions for consideration until September 22, 2006.

While petitions to withdraw from issue may be mailed, as was done in this case, applicants were cautioned to hand carry petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. (See *Centralized Delivery and Facsimile Transmission Requirements for Patent Application Related Correspondence, 1275 Off. Gaz. Pat. Office 200* (Oct. 28, 2003)).

The Request for Continued Examination (RCE) filed August 22, 2006, is considered an improper submission under 37 CFR 1.114. Accordingly, the RCE and accompanying Information Disclosure Statement (IDS) will be placed in the file of the above-identified patent without further consideration. The $790 filing fee for the improper RCE will be refunded to counsel's deposit account.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Joseph E. Kaminkow	: DECISION ON REQUEST FOR
Patent Number	: 7628692	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **943** 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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MOLECULAR IMPRINTS, INC.
LEGAL DEPARTMENT
P.O. BOX 81536
AUSTIN TX 78708-1536

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Michael P.C. Watts et al :
Application No. 10/227,105 :
Filed: August 23, 2002 :
Attorney Docket No. MII-03-03-02 :

ON PETITION

This is a decision on the petition, filed September 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 26 2004

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of :
Eugene P. Boden et al :
Serial No.: 10/227,111 : PETITION DECISION
Filed: August 23, 2002 :
Attorney Docket No.: 08CL7494-4 :

This is a response to the petitions under 37 CFR 1.59(b), filed September 23, 2003, and November 24, 2003, to expunge information from the above identified application. This application has not been allowed or had an *ex parte Quayle* action mailed, however the petitions will be addressed on the merits.

Petitioner requests that documents submitted September 29, 2003, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The documents appear to be related to the question of inventorship which is not a matter which would be addressed or determined by the Office. Thus the documents do not relate to the merits of patentability of the application and may be expunged. Since this application has been converted to an Image File Wrapper (IFW) application the documents are not physically returnable, but access to the documents has been closed to the public (they will remain accessible to the examiner) with an annotation that they are expunged.

Petitioner also requests in a second petition that documents submitted November 24, 2003, as a Proprietary Information Disclosure Statement be expunged from the record. The petition fee set forth in 37 CFR 1.17(h) has been paid. A review of this document shows that it contains information which may be relevant to the patentability of the application and it will therefor not be expunged at this time. The document, however, has been removed from public access.

The first petition has been **GRANTED** and the second petition is **DISMISSED** without prejudice to resubmission at a later date.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the material will be annotated as expunged.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN - 4 2005

CANTOR COLBURN LLP
55 GRIFFIN RD SOUTH
BLOOMFIELD CT 06002

In re Application of	:	
Eugene P. Boden et al	:	
Serial No.: 10/227,111	:	PETITION DECISION
Filed: August 23, 2002	:	
Attorney Docket No.: 08CL07494-4	:	

This is in response to the petition under 37 CFR 1.181, filed September 28, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on September 29, 2003, setting a three month shortened statutory period for reply. Applicants replied on November 4, 2003, with amendments to the specification and claims and an offer to provide a terminal disclaimer when the copending application was allowed. On November 24, 2003, applicants filed RCE papers including an IDS. The examiner by Advisory action on December 2, 2003, indicated non-entry of the amendment filed November 4, 2003. A further amendment was filed on April 8, 2004. The application was held abandoned on September 21, 2004, for failure to comply with RCE requirements in that no submission accompanied the RCE papers. Applicants state that RCE papers were accompanied by an IDS which is all that is required. Applicants are partially correct in this assertion. After Allowance of an application, an RCE may be filed accompanied only be an IDS. An application under Final Office action must be accompanied by a complete reply to that Office action. However, the RCE form filed has a statement 1(a) with regard to previously submitted replies to the effect that, even if the box is not checked, any amendments filed after final Office action may be considered as a submission. Such is the situation here, and the previously submitted reply should have been considered the required submission. In view of applicants' fulfillment of the RCE requirements, the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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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Scott M. Garrett
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale FL 33322

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MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Charbel Khawand et al.	:	DECISION
Application No. 10/227,118	:	ON PETITION
Filed: August 23, 2002	:	37 CFR 1.137(b)
Attorney Docket No. CM03734J	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Stephen Cronin at (571) 272-6051, or in his absence, the undersigned at (571) 272-3217.

The application file is being forwarded to Technology Center Art Unit 2681.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

LC

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Lindsey
21075 N. 20th Street
Barrington, IL 60010

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FEB 16 2006

OFFICE OF PETITIONS

In re	:	
Lindsey	:	
Application No. 10/227,129	:	RECONSIDERATION OF
Filing Date: August 24,2002	:	PATENT TERM ADJUSTMENT
Attorney Docket: MKL-001	:	

This decision is in response to applicant's "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed December 6, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of zero days to a determination of one hundred and thirty-three days.

Applicants request for PTA reconsideration is **DISMISSED**.

Applicants assert that the proper amount of PTA at the time of the mailing of the notice of allowance is one hundred and thirty-three (133) days. Applicants assert that the Office failed to provide applicants any PTA for missing the requirement of 37 CFR 1.702(a)(1). Applicants further assert that they did not fail to engage in any reasonable efforts to conclude prosecution of the applicant nor has applicant filed a terminal disclaimer.

Applicants' arguments are not persuasive. Applicants are correct in asserting that the Office fail to meet the requirement of 37 CFR 1.702(a)(1). The Office notes that the Office did assess a one hundred and thirty-three day delay exactly as suggested by applicants. However, applicants' assertion that they did not fail to engage in any reasonable efforts to conclude prosecution of the application is inaccurate. Specifically, the Office assessed a total reduction against patent term of one hundred and seventy-three (173) days of PTA for the applicants' failure on

two occasions to file a proper reply to the Office notice. Note that applicants' reply on May 6, 2004 was incomplete/noncompliant and required applicant to submit a response on June 25, 2004 that was also incomplete/noncompliant. Accordingly, applicants finally complied on October 26, 2004 by submitting a compliant response. Accordingly, applicants incurred a total of one hundred and seventy-three (days) of applicant delay under 37 CFR 1.704(c)(7).
Accordingly, overall the correct amount of PTA at the time of the mailing of the notice of allowance is zero (133-173=0).[1] After the mailing of the notice of allowance, the Office will have to delay at least 41 days prior to applicant receiving any positive PTA.

After mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the application. Any delays in issuing the patent pursuant to 37 CFR 1.702(a)(4) should be reflected in the issue notification letter that is mailed to applicant approximatley three weeks prior to issue date of the application.

The Office has assessed the $200.00 fee for the submission of this petition. No additional fees are required in determining this petition. Fees are required regardless of whether such qualifies as a small entity.

Any questions concerning this decision should be directed Kery Fries at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: PAIR calculation

[1]The Office notes that if applicants delay is greater than the Office delay then the amount of PTA will be zero. The Office does not reduce the 20 year term by the amount in excess of Office delay.

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JJGJR.: 03-06

Paper No:__

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MAR 30 2006
OFFICE OF PETITIONS

LUMEN INTELLECTUAL
PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO CA 94306

In re Application of	:	
Gerken, et al.	:	DECISION
Application No. 10/227,138	:	
Filing Date: 22 August, 2002	:	
Attorney Docket No.: S02-158	:	

This is a revised decision on the petition filed on 1 September, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181–the petition was only received in the Office of Petitions as of this writing.

NOTE: Docketing of Status Inquiries at three- (3-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- following the Notice of Allowance and Fees Due and Notice of Allowability, Petitioner appeared to have failed to reply timely and properly to the Notice of Drawings Inconsistency mailed on 16 May, 2005, with reply due under a non-extendable deadline on or before 16 June, 2005;

- the application went abandoned after midnight 16 June, 2005;
- the Office mailed the Notice of Abandonment on 18 August, 2005;
- on 1 September, 2005, Petitioner filed a the instant petition with the allegation that the reply had been timely filed, and in support of that allegation Petitioner filed a copy of the date-stamped ("May 31 2005") receipt card (see: MPEP §503[1]) along with a copy of the reply averred to have been filed.

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]

---

[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.)

[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 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]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

It appears that Petitioner has satisfied the requirements of the regulation and the case law as discussed above.

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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.

[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.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, fees are waived and none have been charged; and the Notice of Abandonment of 18 August, 2005, hereby is **vacated**.

The instant matter is released to Publications Branch to be processed into a patent 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

Commissioner for Patents
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Paper No. 7

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE CA 92612

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
JERSEY-WILLUHN et al. :
Application No. 10/227,150 : DECISION GRANTING PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1013.P001 US :

This is a decision on the petition, filed August 8, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on January 21, 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 Corrected Filing Receipt, which sets forth the projected publication date of November 20, 2003, accompanies this decision on petition.

The $650.00 petition fee will be charged to Deposit Account No. 50-2240.

This application is being forwarded to Technology Center Art Unit 3736 for examination in due course.

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: Corrected Filing Receipt

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Paper No. 7

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IRVINE CA 92612

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SEP 0 8 2003
OFFICE OF PETITIONS

In re Application of :
JERSEY-WILLUHN et al. :
Application No. 10/227,175 : DECISION GRANTING PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1013.P003 US :

This is a decision on the petition, filed August 8, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on January 21, 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 Corrected Filing Receipt, which sets forth the projected publication date of November 20, 2003, accompanies this decision on petition.

The $650.00 petition fee will be charged to Deposit Account No. 50-2240.

This application is being forwarded to Technology Center Art Unit 3737 for examination in due course.

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: Corrected Filing Receipt

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Paper No. 6

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SUITE 1600
CHICAGO IL 60603-3406

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
James Fitzgibbon	:	
Application No. 10/227,182	:	ON PETITION
Filed: 23 August, 2002	:	
Attorney Docket No. 74225	:	

This is a decision on the petition, styled under 37 CFR 1.137(a) as a petition to revive an "unintentionally" abandoned application, filed on 1 March, 2004, which is first treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 25 November, 2002, for failure to timely file a response to the Notice to File Missing Parts mailed on 24 September, 2002, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, and additional claim fees. A two (2) month 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 23 January, 2004.

Petitioner asserts that the Notice to File Missing Parts mailed on 24 September, 2002, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a

search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has submitted a statement from the practitioner, James P. Krueger, attesting to the fact that a review of the docket records indicates that the Office correspondence in question was not received. Petitioner has also included a copy of a docket report and what appears to be the file jacket.

The office is construing the docket records submitting with the present petition as those counsel relied upon in making the statement that a review of the docket records indicates that the Notice to File Missing Parts was not received. Petitioners must inform the Office if this is an incorrect interpretation.

The petition complies with the requirements set forth in MPEP 711.03(c).

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 23 January, 2004, was sent in error and is vacated. In view thereof, the petition fee of $1,330.00 is unnecessary and will be refunded to counsel's deposit account, No. 06-1135 as authorized in the present petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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CHIRON CORPORATION
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

Mail Date: 04/21/2010

Applicant	: Denis J. Gospodarowicz	: DECISION ON REQUEST FOR
Patent Number	: 7265089	: RECALCULATION of PATENT
Issue Date	: 09/04/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,185	: OF WYETH
Filed	: 08/21/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Jukka Salonen :
Application No. 10/227,194 : DECISION GRANTING PETITION
Filed: August 21, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0365-0639PUS1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MOUNTAIN VIEW, CA 94043

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OFFICE OF PETITIONS

In re Application of
David R. Cox, et al.
Application No. 10/227,195
Filed: August 22, 2002
Attorney Docket No. 1030U-1

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment to the specification.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The amendment to the specification filed with the instant petition is improper because the provisional application number 60/323,059 filed September 18, 2001 was converted to a non-provisional application number 10/166,341 on September 18, 2001; therefore, a substitute amendment stating the proper reference is required.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment stating the proper reference is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of
David R. Cox, et al.
Application No. 10/227,195
Filed: August 22, 2002
Attorney Docket No. 1030U-1

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment to the specification.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1) above. In this regard, the amendment submitted with the petition references the prior-filed application by the patent number rather than by the application number and further fails to set forth the relationship of this application to 10/166,341. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed **application** is submitted at such time during the pendency of the application as required by the Director.

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional application 10/106,097 must contain or be amended to contain a reference to each such prior-filed application, **identifying it by application number (consisting of the series code and serial number)** and **indicating the relationship of the applications.**

In this regard, the relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application.

Accordingly, a proper amendment complying with the provisions of 37 CFR 1.121 and satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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
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By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of :
David R. COX et al. :
Application No. 10/227,195 : DECISION DISMISSING PETITIONS
Filed: August 22, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1030U-1 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed April 24, 2006 states that the present application is a continuation of U.S. Application No. 10/227,152 filed August 22, 2002, now abandoned; however U.S. Application No. 10/227,152 and the present application were both filed on August 22, 2002, therefore U.S. Application No. 10/227,152 cannot by definition be a continuation of this application.

For the above-stated reasons, the petition is **DISMISSED**

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5) and (6)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
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By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
David R. COX et al. :
Application No. 10/227,195 : DECISION ON PETITIONS
Filed: August 22, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1030U-1 :

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed June 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The prior formerly pending nonprovisional application Nos. 10/166,341 and 10/106,097 were pending during the filing of this nonprovisional application, and the prior formerly pending nonprovisional application No. 10/106,097 was filed on March 26, 2002, which is within twelve months of the filing date of the prior-filed provisional Application Nos. 60/332,550, which was filed on November 26, 2001; 60/327,006, which was filed on October 5, 2001; 60/313,264, which was filed on August 17, 2001; and 60/280,530, which was filed on March 30, 2001, for which priority is claimed. A reference to the

prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the prior nonprovisional application through which 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)(3) and (a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed nonprovisional application Nos. 10/166,341 and 10/106,097, and provisional application Nos. 60/332,550; 60/327,006; 60,313,264; and 60/280,530 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1634 for appropriate action on the amendment submitted June 30, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/25/2005

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction on Patent No.: 10/227,206 6853128

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit** 2879

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PRINTER'S TRIM LINE

Approved - JP. 7/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,853,128 B2

DATED : February 8, 2005

INVENTOR(S) : TAKAHIRO HACHISU

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ON COVER PAGE AT (56) OTHER PUBLICATIONS

After "M. Hartwell, et al.": "Int rnational" should read --International--.

SHEET 9

Figure 10, Insert: --PRIOR ART--.

COLUMN 3

Line 40, "Inventors" should read --Inventor--.

COLUMN 5

Line 48, ""a" should read -- ¶ "a--.

COLUMN 6

Line 11, "devices";" should read --device;"--.

COLUMN 9

Line 27, "several pm" should read --several μm--.

COLUMN 13

Line 23, "per pm" should read --per μm--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,853,128 B2

DATED : February 8, 2005

INVENTOR(S) : TAKAHIRO HACHISU

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 14

Line 12, "Figure," should read --the Figure,--; and
Line 63, "was" should read --were--.

COLUMN 17

Line 21, "permits-use" should read --permits use--.

COLUMN 18

Line 54, "wherein," should read --wherein--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 6,853,128 B2

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AUG 01 2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of:
CHRISTOPH HOELEN ET AL.
Serial No.: 10/227,228
Filed: 23 August 2002
Docket: NL010572
Title: LIGHT PANEL WITH ENLARGED VIEWING WINDOW

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on May 12, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

An Office action (ex parte Quayle) was mailed June 18, 2003, setting a two-month shortened statutory period for reply. In the apparent absence of receipt of a response, a Notice of Abandonment was mailed on April 20, 2004.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner submitted the following papers as evidence of timely submission: 1) a complete copy of the submission bearing a Certificate of Mailing dated July 2, 2003, 2) a copy of a receipt stamped by the USPTO and dated July 2, 2003, and 3) a statement alleging that the reply was timely submitted.

The file record does not include the response of July 2, 2003.

Procedure for determining whether a response mailed by applicant but not received by the Office is set forth in 37 C.F.R. § 1.8. Under 37 C.F.R. § 1.8, correspondence which includes a certificate stating the date of deposit may be considered timely even if not received timely by the Office. The Office must receive 1) timely notification of the previous mailing, 2) an additionally copy of the previously mailed correspondence and certificate, and 3) a statement which attests on a personal knowledge basis that the earlier correspondence was timely mailed.

Petitioner's submission meets the criteria set forth in 37 C.F.R. § 1.8, and therefore the submission is considered to have been timely filed.

The Notice of Abandonment mailed April 20, 2004 is hereby vacated and the holding of abandonment withdrawn.

The amendment submitted with the petition shall be entered, and the application file shall be forwarded to the examiner for further prosecution. An Office action will be mailed in due course.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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900 THIRD AVENUE
NEW YORK NY 10022

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Tam et al.	:	
Application No. 10/227,235	:	DECISION ON PETITION
Filed: August 22, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 6319-930	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 21, 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 concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, an amendment[1] in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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PO BOX 1510
875 THIRD AVENUE, 8TH FLOOR
NEW YORK NY 10150-1510

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OFFICE OF PETITIONS

In re Application of
Tam et al.
Application No. 10/227,235
Filed: August 22, 2002
Attorney Docket No. 6319-930

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 18, 2007an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on August 22, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

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)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of

an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 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. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1623 for appropriate action on the amendment submitted May 18, 2007, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/227,235	08/22/2002	1623	870	6319-930	12	2

CONFIRMATION NO. 5577

CORRECTED FILING RECEIPT

OC000000025224533

29858
THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
875 Third Avenue, 8th Floor
NEW YORK, NY 10150-1510

Date Mailed: 08/07/2007

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)

Robert Tam, Irvine, CA;
Kanda Ramasamy, Aliso Viejo, CA;
Zhi Hong, Aliso Viejo, CA;
Johnson Lau, Newport Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number **29858**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/595,365 10/05/2000 PAT 6,455,508
which claims benefit of 60/182,676 02/15/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/30/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/227,235

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Nucleoside analogs with carboxamidine modified monocyclic base

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).

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OFFICE OF PETITIONS

In re Application of :
TAM, et al. :
Application No. 10/227,235 : DECISION ON PETITION
Filed: August 22, 2002 : TO WITHDRAW
Attorney Docket No. **6319-930** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 26, 2007.

The request is **NOT APPROVED.**

A review of the file record indicates that James P Demers does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT WILL AND EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Robert Tam et al. :
Application No. 10/227,235 : DECISION ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. 081117-0042 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 30, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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) a proper statement of unintentional delay.

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1623 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Victor Behar
McDERMOTT WILL & EMERY LLP
4370 La Jolla village Drive, Suite 700
San Diego, CA 92122

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MAR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Tam, et al.	:	
Application No. 10/227,235	:	DECISION GRANTING PETITION
Filed: August 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081117-0042	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 23, 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 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MCDERMOTT, WILL & EMERY
11682 EL CAMINO REAL
SUITE 400
SAN DIEGO, CA 92130-2047

Mail Date: 05/25/2010

Applicant	: Robert Tam	: DECISION ON REQUEST FOR
Patent Number	: 7638496	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/227,235	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1524** 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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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Michael Suel :
Application No. 10/227246 : DECISION ON PETITIONS
Filing or 371(c) Date: 08/23/2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 4363-4012US7 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this

application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1641 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

Christina L. Donnell

Christina Donnell
Senior Attorney
Office of Petitions

CC: ERIC P. MIRABEL
BIOARRAY SOLUTIONS, LTD.
35 TECHNICNOLOGY DRIVE
WARREN, NJ 07059

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10281-2101

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
Michael Suel :
Application No. 10/227246 : DECISION ON PETITIONS
Filing or 371(c) Date: 08/23/2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 4363-4012US7 :

This is a decision on the Substitute Petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

Petitioner files the present Substitute Petition and states that "[t]he charges for the fee due in this matter of $1,370.00 have been charged on 12/18/06 pursuant to an earlier-filed, apparently misplaced petition, and thus no further fees are due in this matter.").

A review of Office records reveals that Applicant filed a Petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), along with an Amendment, on December 18, 2006. A review of the Amendment filed with the present Substitute Petition reveals that the Amendment is a copy of the Amendment filed with the petition filed December 18, 2006.

A Decision granting the petition filed December 18, 2006, was mailed March 7, 2007.

In view of the foregoing, the Substitute Petition is dismissed as moot.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1641 for continued examination in due course.

Anthony Knight
Supervisor
Office of Petitions

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Paper No. 7

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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APR 16 2003

OFFICE OF PETITIONS

In re Application of
Hartigan, et al.
Application No. 10/227,304
Filed: August 26, 2002
Atty. Dkt. No.: 3820-001-27
Title: METHOD AND SYSTEM FOR TRACKING AND REPORTING TIME SPENT ON TASKS

: DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed January 23, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 260, 2002 without a fully executed oath or declaration and naming Karen Wynne Hartigan, Samuel Wolfram Hunter, Dennis Evgenievich Loukonine, Brien Francis Morgan, and Omid E. Kia as joint inventors. Accordingly, on September 23, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, among other items, an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the citizenship of the non-signing inventors in accordance with 37 CFR 1.63(a)(3). Petitioner is advised that any renewed petition should include an executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

Application No. 10/227,304

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC98 JUN 12 2003 PATENT & TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

Request for Reconsideration Due: 6/16/2003

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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APR 16 2003

OFFICE OF PETITIONS

In re Application of
Hartigan, et al.
Application No. 10/227,304
Filed: August 26, 2002
Atty. Dkt. No.: 3820-001-27
Title: METHOD AND SYSTEM FOR TRACKING AND REPORTING TIME SPENT ON TASKS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

PIPER RUDNICK

APR 3 2003

This decision is in response to the petition under 37 CFR 1.47(a), filed January 23, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 260, 2002 without a fully executed oath or declaration and naming Karen Wynne Hartigan, Samuel Wolfram Hunter, Dennis Evgenievich Loukonine, Brien Francis Morgan, and Omid E. Kia as joint inventors. Accordingly, on September 23, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, among other items, an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the citizenship of the non-signing inventors in accordance with 37 CFR 1.63(a)(3). Petitioner is advised that any renewed petition should include an executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

RECEIVED
JUN 17 2003
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Application No. 10/227,304

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 10

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JUN 23 2003

OFFICE OF PETITIONS

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

In re Application of :
Hartigan, et al. :
Application No. 10/227,304 : DECISION GRANTING
Filed: August 26, 2002 : STATUS UNDER 37 CFR
Atty. Dkt. No.: 3820-001-27 : 1.47(a)
Title: METHOD AND SYSTEM FOR :
TRACKING AND REPORTING TIME :
SPENT ON TASKS :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 23, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Dennis E. Loukonine and Brien F. Morgan have 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 one month extension of time has been charged to deposit account No. 50-0869 as authorized in the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Veronesi et al.	:	
Application No. 10/227,313	:	DECISION ON PETITION
Filed: 26 August, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 622-54	:	

This is a decision on the petition filed on 6 January, 2005, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/IT99/00142, filed on 20 May, 1999.

The petition is **dismissed** as moot for the reasons stated below.

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.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; and (3) **a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 363 before November 29, 2000.**

Petitioners seek to amend intermediate Application No. 09/674,301 as follows: " * * * Application No. 09/674,301 being the U.S. national stage of International Application No. PCT/IT99/00142, filed May 20, 1999."

However, since intermediate Application No. 09/675,301 is the national stage entry of an international application filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for

acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

As set forth in MPEP 1893.03(c), page 1800-149, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

A Corrected Filing Receipt which reflects that intermediate Application No. 09/674,301 is the national stage entry of international Application No. PCT/IT99/00142 accompanies this decision on petition.

In view of the dismissal of the instant petition as moot, the $1,370.00 fee submitted therefor is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 02-4800 in due course.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

This application is being returned to Technology Center Art Unit 1654 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

OCT 22 2004

In re Application of Nagasawa, et al.
Application no. 10/227,336
Filed: 26 August 2002
Attorney Docket No. 227386US90

: DECISION ON PETITION

This is a decision on the petition filed under 37 C.F.R. §1.313(b)(1) on 4 December 2003, to withdraw the application from issue after the payment of the Issue Fee in order for the examiner to consider references that were filed in an Information Disclosure Statement on 15 October 2003.

A Notice of Allowance was mailed 25 August 2003. The Petitioner filed an Information Disclosure Statement on 15 October 2003 before the payment of the issue fee but after the mailing of the Notice of Allowance.

The petition is **GRANTED** to the extent indicated below.

According to 37 C.F.R. §1.97 an information disclosure statement shall be considered by the Office if it is filed after the notice of allowance and filed on or before the payment of the issue fee. The appropriate fee (as set forth in 37 § C.F.R. 1.17(p)) and a statement addressing the status of the information disclosure statement must accompany the information disclosure statement.

The Petitioner submitted the Information Disclosure Statement before the payment of the issue fee accompanied by the appropriate fee and a statement in accordance to 37 C.F.R. §1.97(e)(1).

An initialed copy of PTO-1449 filed 15 October 2003, will be sent to the Petitioner upon consideration of the cited references.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

OCT 22 2004

In re Application of Nagasawa, et al.
Application no. 10/227,336
Filed: 26 August 2002
Attorney Docket No. 227386US90

: DECISION ON PETITION

This is a decision on the petition filed under 37 C.F.R. §1.313(b)(1) on 4 December 2003, to withdraw the application from issue after the payment of the Issue Fee in order for the examiner to consider references that were filed in an Information Disclosure Statement on 15 October 2003.

A Notice of Allowance was mailed 25 August 2003. The Petitioner filed an Information Disclosure Statement on 15 October 2003 before the payment of the issue fee but after the mailing of the Notice of Allowance.

The petition is **GRANTED** to the extent indicated below.

According to 37 C.F.R. §1.97 an information disclosure statement shall be considered by the Office if it is filed after the notice of allowance and filed on or before the payment of the issue fee. The appropriate fee (as set forth in 37 § C.F.R. 1.17(p)) and a statement addressing the status of the information disclosure statement must accompany the information disclosure statement.

The Petitioner submitted the Information Disclosure Statement before the payment of the issue fee accompanied by the appropriate fee and a statement in accordance to 37 C.F.R. §1.97(e)(1).

An initialed copy of PTO-1449 filed 15 October 2003, will be sent to the Petitioner upon consideration of the cited references.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Ronald Nicholson
152 West 4th Avenue
Conshohocken PA 19428-1603

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
Nicholson
Application No. 10/227,347
Filed: August 22, 2002
Attorney Docket No. N/A
For: GENERIC COUPON

DECISION ON PETITION

This decision partially addresses the correspondence filed on December 2, 2002 that requests that a Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 23, 2002, in the above-identified application be withdrawn insofar as it alleges that Figure 1 was omitted upon initial filing. The paper is being treated as a petition under 37 CFR 1.53(e).

The petition is **DISMISSED**.

Any further responses regarding this matter must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.53(e)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on August 22, 2002. However, on September 23, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of August 22, 2002, and advising applicant that Figure 1 described in the specification appeared to be missing.

In response, the present petition was filed.

The merits of the petition will not be addressed until petitioner pays the $130.00 petition fee. As stated in the September 23, 2002 Notice, if petitioner is arguing against the validity of the Notice, a petition and a $130.00 petition fee is required.

The Office will not consider the merits of the petition before receipt of the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Ronald Nicholson
152 West 4th Avenue
Conshohocken PA 19428-1603

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Nicholson
Application No. 10/227,347
Filed: August 22, 2002
Attorney Docket No. N/A
For: GENERIC COUPON

DECISION ON PETITION

This decision addresses the supplemental petition under 37 CFR 1.53(e), filed April 8, 2003, that requests that a Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 23, 2002, in the above-identified application be withdrawn insofar as it alleges that Figure 1 was omitted upon initial filing.

The application was filed on August 22, 2002. However, on September 23, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of August 22, 2002, and advising applicant that Figure 1 described in the specification appeared to be missing.

In response, the present petition was filed. Petitioner asserts that Figure 1 is there in its entirety. However, a review of the application file reveals that the specification refers to the drawings as "Figure 1" in some places and breaks it down into "Figure 1a" and "Figure 1b" in other places. The original drawings present in the application file cite "Figure 1a" and "Figure 1a". Petitioners referred to the drawings in an inconsistent manner.

The "Notice" mailed September 23, 2002, was correct in advising applicant that a drawing of Figure 1 appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn. The petition fee is required, since the petition was not necessary to correct any PTO error.

The petition under 37 CFR 1.53(e) is DISMISSED.

A sheet of drawings containing a "Figure 1" was not present when the application was filed. Petitioner now desires to substitute drawing figures with different labels. However, an amendment is required to do this. To avoid further delay in the examination of the application, a letter to the draftsman correcting the labeling of the drawing figures should be filed prior to the first Office action.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 22, 2002. The application will not be processed using the drawings supplied on April 8, 2003.

Telephone inquiries concerning this filing date decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Anglehart et al.
Suite 258
393 St-Jacques
Montreal QC H2Y 1N9 CA CANADA

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SEP 24 2009

OFFICE OF PETITIONS

In re Application of :
Nicholaos I. Leoutsarakos :
Application No. 10/227,351 : DECISION ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. P1028US00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 11, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 12, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.
An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $245 extension of time fee submitted with the petition on July 17, 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.

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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2434 for processing the appeal brief filed concurrently with the instant petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: James Anglehart
Suite 1, 185 Sutton House
Beaconsfield, Quebec, H9W 5S3

UNITED STATES 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

GLADYS PRESTON
APT. 9-N
580 PARK AVENUE
NEW YORK, NY 10021

COPY MAILED

DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Gladys Preston :
Application No. 10/227,352 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. :

This is a decision on the petition, filed November 17, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the non-final Office action mailed April 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 July 22, 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(s) item(s) (1).

The petition and amendment received on November 17, 2004 is not sign. The signature of Inventor Gladys Preston is required on the petition and amendment.

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
WWW.USPTO.GOV

Paper No. 5

CLARK & BRODY
SUITE 600
1750 K STREET, NW
WASHINGTON DC 20006

COPY MAILED

MAY 15 2003

OFFICE OF PETITIONS

In re Application of
Nicholas F. D'Antonio et al.
Application No. 10/227,356
Filed: August 26, 2002
Attorney Docket No. 70881-0026

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on February 10, 2003.

The petition is **GRANTED**.

Petitioner has shown that non-signing inventors Nicholas F. D'Antonio, Nicholas J. D'Antonio and Ronald W. D'Antonio have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition filed by the Attorney of Record, Conrad J. Clark, as well as correspondence between the Attorney of Record and the Attorney representing the non-signing inventors, establishes that the inventors were presented with copies of the application papers but refuse to sign the declaration naming them as joint inventors along with Harold Richards and David Middleton.

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, that of their Attorney. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

NICHOLAS F. D'ANTONIO
6308 FLY ROAD
EAST SYRACUSE, NY 13057

NICHOLAS J. D'ANTONIO
6308 FLY ROAD
EAST SYRACUSE, NY 13057

RONALD W. D'ANTONIO
6308 FLY ROAD
EAST SYRACUSE, NY 13057

COPY MAILED

MAY 15 2003

OFFICE OF PETITIONS

In re Application of
Nicholas F. D'Antonio et al.
Application No. 10/227,356
Filed: August 26, 2002
For: AIRLINE COFFEE BREWER

Dear Mr. D'Antonio, Mr. D'Antonio and Mr. D'Antonio:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
D. PETER HOCHBERG
THE BAKER BUILDING
SIXTH FLOOR
1940 EAST SIXTH STREET
CLEVELAND, OH 44114

CLARK & BRODY
SUITE 600
1750 K STREET, NW
WASHINGTON DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Novoselsky et al. :
Application No. 10/227,361 : DECISION ON
Filed: August 26, 2002 : PETITION
Attorney Docket No. Q69835 :

This is a decision on the PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT filed February 4, 2009 (and re-scanned February 13, 2009).

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, October 10, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply received, the above-identified application became abandoned effective January 11, 2009. A courtesy Notice of Abandonment was mailed on February 3, 2009.

Applicants filed the instant petition, asserting that the Office action was not received by applicant's representatives.

A review of the application file reveals no irregularities in the mailing of the Notice of Allowance mailed October 10, 2008. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was

not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed February 3, 2009, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2434 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and to re-mail the Notice of Allowance (and Notice of Allowability) and restart the periods for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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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NXP, B.V.
NXP Intellectual Property Department
M/S41-SJ
1109 McKay Drive
San Jose, CA 95131

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NOV 12 2008

OFFICE OF PETITIONS

In re Application of :
George Edward Cox et al. :
Application No. 10/227,363 : DECISION ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. US020304 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 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 September 13, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 13, 2008. Accordingly, the date of abandonment of this application is September 14, 2008. A Notice of Abandonment was mailed on September 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

FEB 14 2006

RICHARD ARON OSMAN
SCIENCE AND TECHNOLOGY LAW GROUP
242 AVE VISTA DEL OCEANO
SAN CLEMENTE, CA 92672

In re Application of :
Qiang Zhou et al :
Serial No. 10/227,367 : DECISION ON PETITION
Filed: August 25, 2002 :
Attorney Docket No.: B03-006 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on December 3, 2005 to review the last restriction between two 7SK RNA domains.

BACKGROUND

A review of the file history shows that this application was filed on August 25, 2002, and contained claims 1-20. The examiner on May 4, 2005, mailed to applicants a restriction requirement under 35 U.S.C. 121, dividing 1-20 into 13 groups. The groupings are reproduced below:

> Group I, claims 1, 2, 4 and 8-10, drawn to a method of decreasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is an RNA aptamer that specifically binds CDK9/cyclin.
>
> Group II, claims 1, 2, 5 and 8-10, drawn to a method of decreasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a CDK9/cyclin-binding domain of 7SK RNA.
>
> Group III, claims 1, 2 and 8-10, drawn to a method of decreasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-binding antisense 7SK RNA domain.

Group IV, claims 1, 2 and 8-10, drawn to a method of decreasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-specific ribozyme.

Group V, claims 1, 2 and 8-10, drawn to a method of decreasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-specific RNAi.

Group VI, claims 1, 3 and 8-10, drawn to a method of increasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is an RNA aptamer that specifically binds CDK9/cyclin.

Group VII, claims 1, 3 and 8-10, drawn to a method of increasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a CDK9/cyclin-binding domain of 7SK RNA.

Group VIII, claims 1, 3, 6 and 8-10, drawn to a method of increasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-binding antisense 7SK RNA domain.

Group IX, claims 1, 3 and 8-10, drawn to a method of increasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-specific ribozyme.

Group X, claims 1, 3, and 7-10, drawn to a method of increasing transcription in a cell comprising an amount of active CDK9/cyclin, the method comprising introducing an agent that modulates the amount of active CDK9/cyclin in the cell, wherein the agent is a 7SK RNA-specific RNAi.

Group XI, claims 11, 12 and 15-20, drawn to an assay for screening for an RNA aptamer which modulates 7SK RNA-CDK9/cyclin binding.

Group XII, claims 11, 13 and 15-20, drawn to an assay for screening for a CDK9/cyclin-binding domain of 7SK RNA which modulates 7SK RNA-CDK9/cyclin binding.

Group XIII, claims 11, 14 and 15-20, drawn to an assay for screening for a 7SK RNA-binding antisense 7SK RNA domain which modulates 7SK RNA-CDK9/cyclin binding.

The examiner supported this restriction between groups I and VI; II and VII; III and VIII; IV and IX; V and X as unrelated by stating that the inventions are not disclosed as capable of use together and have different modes of operation. Although each of the groups are drawn to a method of altering transcription in a cell comprising an amount of active CDK9/cyclin, the groups are drawn to a separate and distinct agent, each of which has a unique structure and mechanism of action.

The examiner next stated that groups I and VI are also unrelated. The inventions of these groups are not capable of use together and have different effects. Group I is drawn to decreasing transcription in a cell, whereas group VI is drawn to increasing transcription in a cell.

The inventions of groups II and VII are also unrelated according to the examiner. The inventions are not capable of use together and have different effects. Group II is drawn to decreasing transcription in a cell, whereas group VII is drawn to increasing transcription in a cell.

The inventions of groups III and VIII are also unrelated according to the examiner. The inventions are not capable of use together and have different effects. Group III is drawn to decreasing transcription in a cell, whereas group VIII is drawn to increasing transcription in a cell.

The inventions of groups IV and IX are also unrelated according to the examiner. The inventions are not capable of use together and have different effects. Group IV is drawn to decreasing transcription in a cell, whereas group IX is drawn to increasing transcription in a cell.

The inventions of groups V and X are also unrelated according to the examiner. The inventions are not capable of use together and have different effects. Group V is drawn to decreasing transcription in a cell, whereas group X is drawn to increasing transcription in a cell.

Groups I-X are unrelated to the inventions of groups XI-XIII. The inventions are not disclosed as capable of use together and have different modes of operation, different functions, and different effects. Groups I-X are drawn to methods of altering transcription in a cell comprising an amount of active CDK9/cyclin, whereas groups XI-XIII are drawn to methods of screening for an agent that modulates 7SK RNA-CDK9/cyclin binding. The methods of screening do not involve any consideration of methods of altering transcription.

Groups XI, XII and XIII are unrelated. The inventions of groups XI, XII and XIII are not disclosed as capable of use together and have different modes of operation. Each of the groups are drawn to a CDK9/cyclin-binding domain of 7SK RNA, and group XIII is drawn to a 7SK RNA-binding antisense 7SK RNA domain. Each of these agents are structurally distinct and operate through different mechanisms.

Applicants responded by canceling claims 2-3 and 11-20 and adding claims 21-32 and elected group VIII, claims 1, 3, 6 and 8-10 with traverse in the response filed on May 9, 2005. Applicants requested that claims 1, 3-10 and 21-32 be examined together. Applicant argued that their only independent claim, claim 1 defines a method for altering transcription by introducing in a cell an RNA which modulates the amount of active CDK9/cyclin in the cell, and thereby

alters CDK9/cyclin-dependent transcription in the cell. Applicant further argued that the remaining claims 3-10 and 21-32 are just dependent claims directed to species of claim 1, wherein the RNA is the RNA aptamer species, the CDK9/cyclin-binding domain of 7SK RNA species, and the 7SK RNA-specific RNAi species.

The examiner mailed a non-final rejection on June 13, 2005, responding to applicants' traversal by stating that the restriction requirement was proper and was not a species election. The examiner argued that while it is granted that each of the agents is made of nucleotides, it is not the nucleotides *per se* that confer their activity. Each of the agents function through a different mechanism. For example, an RNA aptamer binds to a protein, a ribozyme acts catalytically, siRNA molecules act through the RNAi mechanism, and an antisense oligonucleotide induces Rnase H activity. Each of the agents depends on a separate and distinct secondary structure and therefore each requires its own search. A search for any of these inventions would not necessarily return art against another of the inventions, due to the structural and functional differences of each of the agents. The examiner made the requirement FINAL and then stated that claims 4, 5, 7, 21-26 and 30-32 are withdrawn from further consideration as being drawn to non-elected inventions. Claims 1, 6, 8-10 and 27-29 were rejected under 35 U.S.C. 112, second paragraph, as indefinite, and first paragraph, as lacking written description and enablement and also under 35 U.S.C. 102(b) as anticipated by Luo et al or Krause et al.

In Applicants' response filed June 28, 2005, Applicants cancelled claims 1-32 and introduced claims 33-40. The new claims were drawn to a method for increasing a CDK9/cyclin-dependent transcription in a cell and replied to the rejections of record, as appropriate.

On July 22, 2005, the examiner mailed a new restriction requirement to applicants, stating that the restriction requirement was a supplemental restriction requirement after a non-final rejection as a result of applicant's amendments to the claims which introduced new sequences. The examiner applicants to elect one of the sequences for prosecutio.

The examiner stated that claims 37-40 are subject to restriction since they are not considered to be a proper genus/Markush. See MPEP 803.02-PRACTICE RE MARKUSH-TYPE CLAIMS. If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush grouping of the claim on the merits, even though they are directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure below and will not require restriction. It is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility. The examiner argued that claims 37-40 recite antisense of nucleotides 221-241 or 95-114 of SEQ ID NO: 1. The Markush/genus of sequences in claims 37-40 are not considered to constitute proper genus, as each sequence is structurally unique. Each antisense sequence is considered to be unrelated, since each sequence is structurally and functionally independent for the following reasons: each sequence has a unique nucleotide sequence, each of the sequences do not contain a common structural core, and each sequence targets a different and specific region of target RNA. Although each of the antisense sequences

comprises nucleotides, it is the sequence of such nucleotides that defines each antisense oligonucleotide. As such, the Markush/genus of antisense sequences in claims 37-40 are not considered to constitute proper genus, and therefore are subject to restriction. Furthermore, a search of more than one of the sequences claimed in claims 37-40 presents an undue burden on the office due to the complex nature of the search and corresponding examination of more than one of the claimed antisense sequences. Accordingly, applicants are required to elect one antisense sequence, either antisense to nucleotides 221-241 or 95-114 of SEQ ID NO:1 for examination.

Applicants replied on July 25, 2005, electing the antisense of nucleotides 221-241 with traverse. Applicants argued that claim 33 recites the step of introducing in to a cell an antisense 7SK RNA. Claims 37-40 restrict that antisense 7SK RNA to two 7SK RNA domains: nucleotides 221-241 or 95-114 of human 7SK RNA (SEQ ID NO: 1). The two domains are of the same RNA molecule (7SK RNA) defined by SEQ ID NO: 1; the restriction's proposal that these sequences are "unrelated" is not reconcilable with this relationship. Nor is restriction supported by a large number of species (only two). The subject disjunctive is the epitome of the situation addressed by MPEP 803.02, wherein if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.

On September 28, 2005, the examiner issued a notice of non-compliance stating that some of the claims were improperly marked as "original" claims which was incorrect. Applicants amended the claims so that they would be in proper form as new claims on October 2, 2005.

On November 29, 2005, the examiner issued a Final Office action. The examiner argued that applicants' assertion that the two regions residing on the same target (SEQ ID NO: 1) is not sufficient basis for overcoming a search burden. Each of the regions is structurally distinct and an antisense oligonucelotide designed to target one of the regions would not necessarily target the other region. Each of the regions consists of completely separate and distinct nucleotide sequences, each of which would result in a unique antisense oligonucleotide targeted to it. Each of the antisense sequences requires a separate and distinct search and examination and is therefore considered to be separate inventions. The examiner then made the requirement FINAL. The examiner also rejected claims 33-36 under 35 U.S.C. 103(a) as unpatentable over Luo et al in view of Nguyen et al, Bieniasz et al and Wada et al

Applicants filed this petition to review the restriction requirement on December 3, 2005

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition filed on December 3, 2005, Applicants request the full breadth of claims 33-40 to be examined and review of the last restriction requirement, not the original restriction requirement.

Applicants request that the other domain (nucleotides 95-114 of human 7SK RNA- SEQ ID NO: 1) be considered along with the currently examined one. Applicants' reasons for this traversal

were the same as previously presented. Applicants also presented a proposed amendment in which claims 33, 37-40 were amended and new claims 41-44 were added. (Basically, the applicant added alternative language to claim 33 to define that the antisense RNA consists of the two domains in question and limited claims 37-40 and new claims 41-44 to one domain.)

While applicants arguments have been carefully considered they are not correct. The examiner made it clear that this restriction requirement was just that, a restriction requirement and not a species election. Applicants direct the examiner to MPEP 803.02 but this section has to do with species elections and not restriction requirements.

The examiner also pointed out that the domains (nucleotides 221-241 and 95-114 of human 7SK RNA) are structurally distinct as shown by their different sequences which may both be part of SEQ ID NO: 1, but clearly are different sequences as is readily apparent when one looks at SEQ ID NO: 1.

However, the examiner has failed to recognize that claim 33, as previously and presently drafted, is a linking claim and linking claim practice as set forth in M.P.E.P. 809 must be followed. The practice allows restriction among the independent and distinct claims which are set forth in the dependent claims presented and requires applicants to elect one of the inventions for prosecution along with the linking claim. Should the elected group be found allowable along with the linking claim, then all other groups are rejoined with the allowable linking claim and fully examined. (The result is similar to that obtained under a species election when the elected species is found allowable.) At present the examiner has indicated that the elected group is allowable, but not the linking claim.

DECISION

Applicants' petition is **GRANTED-IN-PART** as noted above. The elected group and linking claims will continue to be examined and should the linking claims be found allowable, the other non-elected group will be rejoined and fully examined.

The application will be forwarded to the examiner for consideration of the amendment filed December 3, 2005, and further prosecution as required which is not inconsistent with this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-21-07

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10227369 Patent No.: 6602730

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Steven Loke — SPE

2818 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
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WASHINGTON DC 20004

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MAR 1 4 2005

OFFICE OF PETITIONS

In re
Helenek, et al.
Application No. 10/227,445
Filed : August 26, 2002
Attorney Docket No. 044956-5099

: DECISION REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed October 26, 2004. 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 twenty-nine (129) 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 **one hundred twenty-nine (129) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 2, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On October 26, 2004, 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 one hundred twenty-nine (129) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants assert entitlement to a patent term adjustment of one hundred twenty-nine (129) days on the basis that the PTO improperly assessed Applicants a delay of one hundred four (104) days for responding to a Restriction Requirement mailed on December 30, 2003. Applicants assert that they timely filed a response on January 30, 2004, within the three month period pursuant to 37 C.F.R. §1.704(b).

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of sixty-five (65) 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 one hundred four (104) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 104 days is at issue.

The adjustment of 104 days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing a "RESPONSE TO RESTRICTION REQUIREMENT", and bearing a USPTO date stamp of January 30, 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 Applicants filed a complete reply in response to the December 30, 2003 Restriction Requirement on January 30, 2004, and therefore should not have been assessed a delay of one hundred four (104) days.

Furthermore, as Applicants timely filed the Response to Restriction Requirement on January 30, 2004, the PTO had until May 30, 2004 to mail a response. The PTO did not mail a response, a Notice of Allowance, until August 2, 2004. Accordingly, pursuant to 37 C.F.R. 1.703(a)(2), PTO delay should have been assessed as sixty-four (64) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred twenty-nine (129) days** (129 (64+65) days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

---

[1] Applicants filed the application for patent term adjustment prior to filing the issue fee.

[2] MPEP 503.

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.

/Karin A Ferriter/

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: updated PAIR screen

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,820,950 :
Issue Date: November 23, 2004 :
Application No. 10/227,459 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket Number: 1496-738 :
:

This is a decision on the petition, filed on April 4, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **Granted**.

The $400.00 petition fee will be refunded.

A copy of this decision is being forwarded to the Office of Patent Publication for issuance of a duplicate letters patent for patent 6,825,889 to attorney of record:

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: **Krystal Paige, South Tower, 8th Floor**
Room C-32
Fax - (703) 746-4642
Phone - (703) 308-9250 x 139

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Barry Ross Matthews	: DECISION ON REQUEST FOR
Patent Number	: 7572459	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,538	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **404** 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
Washington, DC 20231
www.uspto.gov

11/5/03

Fish and Neave
50th Floor
1251 Avenue of the Americas
New York NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 10/227,554 received on 10/10/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

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Paper No. 8

Daniel Walker
PO Box 1221
Glendora, CA 91740

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Walker :
Application No. 10/227,569 : ON PETITION
Filed: August 26, 2002 :
For: House Savior :

This is a decision in response to the paper filed July 22, 2004, which is being treated as a petition under 37 CFR 1.137(a), to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A non-final Office action was mailed December 11, 2003. The Office action set a shortened statutory period for reply of three (3) months. A timely and proper reply was not filed. Therefore, the application is abandoned as of March 12, 2004.

Petitioner did file a late reply June 25, 2004. The reply was sent to an incorrect address. The current address for the Patent and Trademark Office is:

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Although sent to the Office's old address, the June 25, 2004 reply was eventually received and matched with the file.

A postcard attached to the reply states the reply was late due to petitioner's schizophrenia.

The "petition to revive" states the reply was late due to petitioner's illness.

Analysis:

Since the petition fee of $55 has not been submitted, the petition must be dismissed and the merits of the petition cannot be considered at this time.

Courtesy Information:

As a courtesy, the Office will try to provide information to assist petitioner in determine the next steps he should take.

Two methods exist which may be used to revive an application.

Petitioner may file a petition under 37 CFR 1.137(a) (if he believes he can meet the requirements), or a petition under 37 CFR 1.137(b).

Petition under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee, and
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable.

As to (1), a *proper* reply which should have been submitted timely must be submitted. The examiner, and not the Office of Petitions, determines if a reply is proper. However, petitioner may wish to review the June 25, 2004 reply and determine if it is proper. If not, he may file a new reply with the petition.

Petitioner should note that, under 37 C.F.R. § 1.111, a request for reconsideration or further examination must be in writing and must satisfy the following five requirements. The reply must:
(1) distinctly and specifically point out the supposed errors in the examiner's action, **and**
(2) must respond to every ground of objection and rejection in the prior Office action, and
(3) must appear to be a *bona fide* attempt to advance the case to final action, and
(4) must clearly point out the patentable novelty of the claims in view of the state of the art disclosed by the references cited or objections made, and
(5) must show how the amendments avoid such references or objections.

As to (2), the petition fee is $55.

As to (3), the showing required can be very difficult to meet.

In general, if health difficulties are the alleged cause of delay, the showing must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between March 12, 2004, and June 25, 2004. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. The showing should include a full and complete discussion concerning how petitioner's schizophrenia prevented him from mailing a response. Was petitioner able to work at this time? A petition under 37 CFR 1.137(a) would need to shown petitioner treated the application the same as he would treat his most important business. If the 137(a) is based on health difficulties, petitioner should establish that a reply would have been timely filed *but for* the health problems.

Petitioner bears the burden of proof. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petition under 37 CFR 1.137(b):

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,
(2) the petition fee, 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 37 CFR 1.137(b) was unintentional.

As to requirement (1), see the discussion for (1) under the header, "Petition under 37 CFR 1.137(a)."

As to requirement (2), the petition fee is $685.

As to requirement (3), instead of a long and detailed showing, petitioner merely needs to make the required statement.

Conclusion:

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a 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 may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: PTO/SB/61 and PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
G. Glenn Henry et al :
Application No. 10/227,572 :
Filed: August 22, 2002 :
Attorney Docket No. CNTR.2187 :

This is a decision on the petition, filed October 25, 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 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : November 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : G. Glenn Henry et al
Application No. : 10/227,572
Filed : August 22, 2002

The above-identified application has been assigned Patent No. 6,820,178 and an issue date of November 16, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 16, 2004:

"All reference to Patent No. 6,820,178 to G. Glenn Henry et al of Austin, TX for APPARATUS AND METHOD FOR SELECTIVE MEMORY ATTRIBUTE CONTROL appearing in the Official Gazette of November 9, 2004 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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COLORADO SPRINGS CO 80906

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OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry et al :
Application No. 10/227,572 : ON PETITION
Filed: August 22, 2002 :
Attorney Docket No. CNTR.2187 :

This is a decision on the petition, filed March 2, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2188 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/20/06

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/227575 Patent No.: 7020508B2

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: _____

Angela D. Sykes

SPE

3766

Art Unit

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of	:	
G. Glenn Henry et al	:	
Application No. 10/227,583	:	DECISION GRANTING PETITION
Filed: August 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CNTR.2195	:	

This is a decision on the petition, filed July 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 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 2183 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 05162005

Raymond Y. Chan
108 N.Ynez Ave, Suite 128
Monterey Park, CA 91754

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of
Ho et al
Application No. 10/227586
Filed: August 26, 2002
Attorney Docket No. USP1743A-AGL

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 1/14/2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to reply to the nonfinal office action mailed 3/16/2004, which set a shortened statutory period for reply of three months. As no reply was received, and no extensions of time were obtained, this application became abandoned on September 17, 2004. A notice of abandonment was mailed out on November 2, 2004.

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

This application is being referred to TC 3637 for consideration of the reply filed January 14, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571) 272-6052, or in his absence, the undersigned at (571)272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Ajanovic, et al. :
Application No. 10/227,599 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 42P13022 :
For: GENERAL INPUT/OUTPUT ARCHITECTURE, PROTOCOL AND RELATED METHODS TO SUPPORT LEGACY INTERRUPTS

This is a decision on the petition, filed March 27, 2006 (certificate of mailing date March 23, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the June 10, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on September 11, 2005. A Notice of Abandonment was mailed on January 19, 2006.

Applicants have submitted an amendment in reply to the June 10, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 10, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2112 for consideration of the amendment filed on March 27, 2006 (certificate of mailing date March 23, 2006).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Eric R. Wehage et al. :
Application No. 10/227,600 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No.: 42P13019 :

This is a decision on the petition filed March 27, 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 February 7, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 10, 2005. Accordingly, a Notice of Abandonment was mailed on September 12, 2005.

This matter is being referred to Technology Center 2112 for appropriate action on the amendment filed March 27, 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)).

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of

Hall and Ellis :

Application No. 10/227,609

Filed: August 22, 2002

Attorney Docket No. 1781-002

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JUL 2 1 2004

OFFICE OF PETITIONS

: DECISION ON PETITION

:

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 21, 2003, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 22, 2004. A Notice of Abandonment was mailed on May 5, 2004.

The amendment filed June 28, 2004, is noted and made of record.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE
HUNTSVILLE, AL 35806

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JUL 12 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/338,238 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. TDCO:020 (F.12C) :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in-part" thereof, rather than as a - -continuation - -. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

The instant nonprovisional application was filed after November 29, 2000, and the correct relationship of the benefit claim herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference 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 satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt 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 Art Unit 3662 for appropriate action on the amendment filed May 4, 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.

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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AUSTIN, TX 78746

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/227,650 : DECISION ON PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TDCO:019 (F.12B)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in part" thereof, rather than as a –continuation--. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included

on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (703) 306-5684.

This matter is being forwarded to Technology Center Art Unit 3662 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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SEP 22 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/227,650 : DECISION ON PETITION
Filed: August 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TDCO:019 (F.12B)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in part" thereof, rather than as a –continuation--. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included

on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (703) 306-5684.

This matter is being forwarded to Technology Center Art Unit 3662 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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Paper No. 12

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Daniel Roth et al :
Application No. 10/227,653 : DECISION ON PETITIONS
Filed: September 6, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. : AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on September 6, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, intermediate nonprovisional Application No. 10/302,053 was filed within twelve months of the provisional Applications noted in the amendment, all of which were filed on September 5, 2001, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 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. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center Art Unit 2655 for appropriate action on the amendment submitted July 19, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
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ALEXANDRIA VA 22314

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Kawamura, et al.	:	
Application No. 10/227,706	:	
Filed: 26 August, 2002	:	DECISION ON
Attorney Docket No.	:	PETITION
275910US6CONT	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 1 February, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior filed application.

The petition is **DISMISSED as inappropriate**.

Along with the instant petition under 37 C.F.R. §1.78(a)(3), Petitioner has submitted an amendment to the first sentence of the specification following the title purportedly to include a reference to a prior-filed PCT application. The amendment reads:

> This application is a continuation of ~~copending U.S. patent~~ application Serial No. 09/541,304, filed April 3, 2000, now issued as United States Patent No. 6,470,141, which is a continuation of application Serial No. 08/530,301, filed October 31, 1995, now issued as United States Patent No. 6,075,920, which is a 371 of PCT/JP95/00026 filed January 12, 1995.

Petitioner's attention is directed to MPEP 1893.03(c)III, which states:

> A national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a).
>
> Accordingly, it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage. For a comparison with 35 U.S.C. 120 benefit claims in a national application filed under 35 U.S.C. 111(a), see MPEP § 1895.

On filing of the application, applicants included a claim under 35 U.S.C. § 120 for the benefit of prior application No. 08/530,301. This claim was proper and was made of record, as shown by its inclusion on the filing receipt. Petitioner now seeks to amend the application to state that nonprovisional application No. 08/530,301, is a 371 of PCT/JP95/00026. As explained in MPEP 1893.03(c), quoted above, this is inappropriate and unnecessary. This is not an additional benefit claim. Application No. 08/530,301 is by definition a U.S. national application for patent which entered the national stage from the international application, referenced in the amendment submitted on instant petition, after compliance with 35 U.S.C. 371. Accordingly, the benefit claim proffered on petition is inappropriate and unnecessary.

In view of the above, the $1,370 surcharge set forth in §1.17(t) is unnecessary and will be refunded to petitioner's deposit account in due course.

This matter is being referred to Technology Center 2621 for further processing and appropriate action on the amendment filed 1 February, 2006.

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Kevin J. McCarthy	: DECISION ON REQUEST FOR
Patent Number	: 7621802	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **462** 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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DEC 19 2005

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

In re Application of	:
Robin Lee Keich et al	:
Serial No.: 10/227,730	: PETITION DECISION
Filed: August 26, 2002	:
Attorney Docket No.: 15787	:

This is in response to the petition under 37 CFR 1.59(b), filed October 17, 2005, to expunge Information from the above identified application..

Petitioner requests that a letter included with an affidavit submitted on October 4, 2005, be expunged from the record. Petitioner states that the letter was erroneously included with the affidavit. The file entry for the affidavit has been closed and as such the documents are no longer publicly available which is the equivalent to removal of a paper document from a paper file wrapper. The original document will not be returned. The affidavit will be without the letter will be reentered in the file.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 7, 2005

Ken I. Yoshida
Knoble Yoshida & Dunleavy
Eight Penn Center-Suite 1350
1628 John f. Kennedy Blvd.
Philadelphia, PA 19103

In re Application of:
Araki, et al.
Serial No: 10/227,743 On Petition
Filing Date: August 26, 2002
For: METHOD AND SYSTEM FOR CORRECTING DISTORTIONS IN IMAGE DATA SCANNED FROM BOUND ORIGINALS

In response to the petitions received on February 7, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 30, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned October 31, 2002. The notice of abandonment was mailed on January 27, 2005.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Nonprovisional Application Papers on November 18, 2002 and to the Notice of Incomplete Reply on December 17, 2002.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

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

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KENNEDY BLVD
PHILADELPHIA PA 19103

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Araki et al.	:	
Application No. 10/227,743	:	DECISION ON APPLICATION
Filed: August 26, 2002	:	FOR
Attorney Docket No. RCOH-1053	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed May 2, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred thirty-seven (737) days to at least one thousand five hundred seven (1507) 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 one thousand four hundred seventy-eight (1478) days, including a period of reduction of 29 days for applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 17, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 737 days. On May 2, 2008, applicants timely submitted an application for patent term adjustment (with

required fee)[1]. Applicants dispute the period of reduction of 770 days entered for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed September 30, 2002. Applicants state that a proper response to the Notice to File Missing Parts was filed on November 8, 2002, and a proper response to the Notice of Incomplete Reply was filed on December 12, 2002. Applicant contends that they are entitled to receive a patent term adjustment of 1507 days without any reduction.

The record supports a conclusion that any patent granted on this application is not subject to a terminal disclaimer.

Preliminarily, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Thus, in evaluating the periods of reduction for applicant delay, the date of receipt of the responses to the Notices, not the date of applicants' certificates of mailing as cited by applicants, are used.

A review of the application history reveals that no response to the Notice to File Missing Parts of Nonprovisional Application mailed September 30, 2002 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed January 27, 2005. In response, on February 7, 2005, applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. Thus, there was no applicant delay within the meaning of 37 CFR 1.704(c)(4).

Moreover, by decision mailed March 7, 2005, the petition was granted on the basis that applicants had shown that they had responded to the Notice to File Missing Parts of Nonprovisional Application on November 18, 2002 and to the Notice of Incomplete Reply on December 17, 2002.

---

[1] PALM records indicate that the Issue Fee payment was also received on May 2, 2008.

The filing of a response on November 18, 2002 to the Notice mailed September 30, 2002 is within the three-month period set forth in 37 CFR 1.704(b). In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice to File Missing Parts of Nonprovisional Application. The period of reduction of 770 days for applicant delay is being removed.

However, the reply filed November 18, 2002 was incomplete. As stated in MPEP 2732:

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq.

In this instance, applicants filed a response to the Notice of Incomplete Reply on December 17, 2002. This response corrected the omission in the response filed November 18, 2002. Pursuant to 37 CFR 1.704(c)(7), a period of reduction of 29 days is being entered for the period beginning on the day after the date the

reply having an omission was filed, November 19, 2002, and ending on the date that the reply or other paper correcting the omission was filed, December 17, 2002.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is one thousand four hundred seventy-eight (1478) days (1507 - 29).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

Date: 7/2/2008
Time: 11:09:05

PALM INTRANET

PTA Calculations for Application: 10/227743			
Application Filing Date:	08/26/2002	PTO Delay (PTO):	1507
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	770
Post-Issue Petitions:	0	Total PTA (days):	1478
PTO Delay Adjustment:	741		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	07/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
59	07/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	770		
46	04/17/2008	MAIL NOTICE OF ALLOWANCE			
45	04/15/2008	ISSUE REVISION COMPLETED			
44	04/15/2008	DOCUMENT VERIFICATION			
43	04/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	04/14/2008	NOTICE OF ALLOWABILITY			
34	02/07/2008	DATE FORWARDED TO EXAMINER			
33	01/11/2008	RESPONSE AFTER NON-FINAL ACTION			
32	12/11/2007	MAIL NON-FINAL REJECTION	1507		-1
31	12/10/2007	NON-FINAL REJECTION			
28	11/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
27	11/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	11/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
25	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
24	10/16/2007	FLAGGED FOR 5/25			
23	12/17/2002	PRELIMINARY AMENDMENT			
22	10/15/2002	CORRECTED FILING RECEIPT			
21	09/23/2002	PRELIMINARY AMENDMENT			
20	02/15/2007	TRANSFER INQUIRY TO GAU			
19	06/06/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	10/15/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17	12/09/2004	MISCELLANEOUS INCOMING LETTER			

16	05/24/2006	APPLICATION DISPATCHED FROM OIPE			
15	05/24/2006	APPLICATION IS NOW COMPLETE			
14	02/07/2005	ADDITIONAL APPLICATION FILING FEES		770	4
13	03/10/2005	REQUEST FOR REFUND			
12	03/07/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
11	02/07/2005	PETITION ENTERED			
10	03/06/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
9	02/07/2005	WORKFLOW INCOMING PETITION IFW			
8	12/02/2002	ABANDONMENT -- DURING PREEXAM PROCESSING			
7	11/18/2002	ADDITIONAL APPLICATION FILING FEES			
6	11/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/18/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	09/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	09/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/26/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 6

MAIL

NOV 26 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM NY 11580-6170

In re Application of :
David S. BREED, et al. :
Application No. 10/227,780 :
Filed: August 26, 2002 :
For: METHOD AND ARRANGEMENT FOR OBTAINING AND CONVEYING INFORMATION ABOUT OCCUPANCY OF A VEHICLE :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed October 20, 2003 under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of a passport for Davis S. Breed, evidencing that he is over 65 years of age.

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 is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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OCT 30 2003

MAILED

OCT 30 2003

OFFICE OF THE DIRECTOR
TC 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 7

In re application of
David S. Breed
Application No. 10/227,781
Filed: August 26,2002
For: APPARATUS AND METHOD FOR CONTROLLING A VEHICULAR COMPONENT

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport from the applicant showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 10/29/03

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Kevin Jameson
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Canada
AIR MAIL

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Kevin Jameson	:	
Application No. 10/227,821	:	DECISION GRANTING PETITION
Filed: August 27, 2002	:	
For: Collection Installable	:	
Knowledge	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, mailed on August 9, 2004. The Notice set a three-month statutory period to respond. Accordingly, this application became abandoned on November 10, 2004. A Notice of Abandonment was mailed on December 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner paid the requisite fees and made the proper statement of unintentional delay.

This matter will be referred to the Office of Patent Publications. Questions relating to the issuance of a patent may be directed to the Office of Patent Publications, Customer Service, at 1-888-786-0101.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Application of :
Damaraju et al. :
Application No. 10/227,835 :
Filed: August 27, 2002 :
Attorney Docket No. 0023-0103 :
Title: PROGRAMMABLE SYSTEMS AND :
METHODS FOR WEIGHTED ROUND :
ROBIN ARBITRATION :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed January 25, 2010. This petition is properly treated under 37 C.F.R. 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand five hundred three (1,503) days, not one thousand eighty-two (1,082) 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**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss 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, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Application of :
Goddard, et al. : DECISION ON APPLICATION
Application No. 10/227,884 : FOR PATENT TERM ADJUSTMENT
Filed: August 26, 2002 :
Atty. Dkt. No.: P3530P1C79 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 12, 2006. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 499 days, as indicated on the Determination of Patent Term Adjustment mailed August 22, 2006, to an adjustment of 581 days. Applicants argue that the declaration submitted March 13, 2006 was specifically requested by the examiner and thus not a failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(8).

The correct PTA at the time of the allowance is 581 days, as argued by applicant.

Applicants do not contest the adjustment of 638 days under 37 CFR 1.702(a)(1) nor do applicants contest the reduction of 57 days under 37 CFR 1.704(b).

Applicants contest the 82 day reduction under 37 CFR 1.704(c)(8) in connection with the response to the declaration submitted March 13, 2006.

A review of the interview summary, mailed March 20, 2006, does indicate that during a telephone interview on March 8, 2006, the examiner did request from applicants an executed declaration under 37 CFR 1.131. As the declaration was expressly requested by the examiner, submission of the declaration on March 15, 2006 is not deemed a supplemental reply within the meaning of 37 CFR 1.704(c)(8).

In view thereof, at the time of allowance, the application is entitled to an adjustment of 581 days, as argued by applicant.

The required PTA application fee of $200.00 has been charged to applicant's deposit account as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Thursday

PALM INTRANET

Date: 3/1/2007
Time: 15:36:51

PTA Calculations for Application: 10/227884			
Application Filing Date:	08/26/2002	PTO Delay (PTO):	638
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	139
Post-Issue Petitions:	0	Total PTA (days):	581
PTO Delay Adjustment:	82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	03/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	82		
54	08/22/2006	MAIL NOTICE OF ALLOWANCE			
53	08/21/2006	ISSUE REVISION COMPLETED			
52	08/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	08/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	08/21/2006	NOTICE OF ALLOWABILITY			
49	05/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	05/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	05/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	07/26/2006	CORRESPONDENCE ADDRESS CHANGE			
45	06/19/2006	DATE FORWARDED TO EXAMINER			
44	05/08/2006	RCE- AF PROCESSED			
43	06/19/2006	DATE FORWARDED TO EXAMINER			
42	05/08/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	06/19/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	05/22/2006	REFERENCE CAPTURE ON IDS			
39	05/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	05/08/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	03/29/2006	SEQUENCE FORWARDED TO PUBS ON TAPE			
36	03/24/2006	EXPORT TO INITIAL DATA CAPTURE			
35	03/20/2006	MAIL NOTICE OF ALLOWANCE			

34	03/17/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	03/17/2006	ISSUE REVISION COMPLETED			
32	03/17/2006	NOTICE OF ALLOWABILITY			
31	03/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
29	01/20/2004	MISCELLANEOUS INCOMING LETTER			
28	03/13/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
27	03/15/2006	DATE FORWARDED TO EXAMINER			
26	03/13/2006	SUPPLEMENTAL RESPONSE		82	19
25	12/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	12/21/2005	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
23	12/21/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
22	12/21/2005	REFERENCE CAPTURE ON IDS			
21	12/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/03/2006	DATE FORWARDED TO EXAMINER			
19	12/21/2005	RESPONSE AFTER NON-FINAL ACTION		57	17
18	12/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	07/25/2005	MAIL NON-FINAL REJECTION	638		-1
16	07/22/2005	NON-FINAL REJECTION			
15	05/02/2005	MISCELLANEOUS INCOMING LETTER			
14	03/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	08/26/2004	PRELIMINARY AMENDMENT			
11	03/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	07/02/2004	PRELIMINARY AMENDMENT			
9	07/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
8	02/09/2004	CORRESPONDENCE ADDRESS CHANGE			
7	09/20/2002	APPLICATION DISPATCHED FROM OIPE			
6	09/19/2002	APPLICATION IS NOW COMPLETE			
4	09/06/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	08/31/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	08/26/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM /			

		GROUP / PCT			
1	08/26/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BAYTOWN, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of :
Paul N. Chisholm, et al. :
Application No. 10/227,907 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No.: 2001B128A :

This is a decision on the petition, filed September 11, 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 22, 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 1764 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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Paper No. 5

Kenneth A. Roddy
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2916 West T.C. Jester Boulevard
Houston TX 77018

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OFFICE OF PETITIONS

In re Application of
Giblin
Application No. 10/227,910
Filed: August 26, 2002
Attorney Docket No. N/A
For: SOLID STATE HEAT PUMP APPLIANCE WITH CARBON FOAM HEAT SINK

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO ACCEPT DRAWING FIGURE AND DECLARATION ATTESTING TO RECEIPT IN USPTO," filed December 27, 2002 (certificate of mailing date December 19, 2002), requesting, in effect, withdrawal of the Notice to File Omitted Items In a Nonprovisional Application (Notice), mailed October 22, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 26, 2002. On October 22, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figure 2 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figure 2 be accorded a filing date of August 26, 2002 on the basis that 6 sheets of drawing figures, including Figure 2, were received in the Patent and Trademark Office (PTO) on August 26, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 26, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. A review of the application file reveals that only 5 sheets of drawing figures are present.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawing figures, including Figure 2, were filed on August 26, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 26, 2002, using the copy of Figure 2 submitted with the instant petition. Office records will be corrected to show that 6 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

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Commissioner for Patents
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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Koichiro Tanaka et al :
Application No. 10/227,922 : DECISION GRANTING PETITION
Filed: August 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2529 :

This is a decision on the petition, filed September 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 July 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of	:	
Bailey et al.	:	
Application No. 10/227,934	:	DECISION GRANTING PETITION
Filed: August 26, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 139009	:	

This is a decision on the petition, filed May 9, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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 August 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 1, 2005 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2663 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: Nicholas Abbott	: DECISION ON REQUEST FOR
Patent Number	: 7666661	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/227,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1089** 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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In re Patent No. 6640852
Issue Date: November 4,2003
Application No. 10228021
Filed: August 26,2002
Attorney Docket No. 23088

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 10,2008 ,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 10,2008 . 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.

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)
6640852	2003-11-04	10228021	2002-08-26	

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	/Larry W. Miller/	Date (YYYY-MM-DD)	2008-09-10
Name	Larry W. Miller	Registration Number	29417

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100106

DATE : January 06, 2010

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7172619

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:

The request dated 02/18/2009 is approved.
The request dated 12/21/2009 is disapproved, since it is broadening the scope of an allowed claim. Air is a fluid, as is saline. Both are recognized by one of ordinary skill in the art as balloon inflation mediums (as well as others). However, "air pressure" was claimed and fluid would broaden the scope, if claimed which is a matter for Reexam. A mistake is not considered to be of the minor character required for the issuance of a Certificate of correction if the requested change would materially affect the scope or meaning of the patent. MPEP 1481

/Corrine M McDermott/
Supervisory Patent Examiner, Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : January 25, 2010

Patent No. :7172619
Inventor :Jacob Richter
Patent Issued :February 6, 2007
Title :SINGLE OPERATOR STENTING SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining column 4, line 55; the requested change broadens the scope of an allowed claim. Air is a fluid, as is saline. Both are recognized by one of ordinary skill in the art as balloon inflation mediums (as well as others). However, "air pressure" was claimed and fluid would broaden the scope, if claimed which is a matter for Rexxam. A mistake is not considered to be of the minor character required for the issuance of a certificate of correction if the requested change would materially affect the scope or meaning of the patent.. MPEP 1481.

Accordingly, applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Andrew Chien
Cadwalader, Wickersham & Taft LLP,
One World Financial Center,
New York, NY 10281

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100401

DATE : April 01, 2010

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7172619

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:

The request dated 3/22/2010 is disapproved, since it is broadening the scope of an allowed claim which is a matter for reexam or reissue. Air is a fluid, as is saline. Both are recognized by one of ordinary skill in the art as balloon inflation mediums (as well as others, the art of balloon inflation is not limited to stent balloons). The fact that isn't acceptable practice does not change the patentability and it would function as claimed even if it isn't recommended as suggested. Fluid still encompasses "air pressure" therefore the correction still claims air pressure. However, "air pressure" was claimed and fluid would broaden the scope, if claimed which is a matter for Reexam. A mistake is not considered to be of the minor character required for the issuance of a Certificate of correction if the requested change would materially affect the scope or meaning of the patent. MPEP 1481

/Corrine M McDermott/
Supervisory Patent Examiner, Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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FEB 23 2004

Office of the Director
Group 3600

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

Paper No. 9

In re Application of
Makoto Chiba
Application No. 10/228,056
Filed: August 27, 2002
For: FISHING REEL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's Petition to Withdrawal the Holding of Abandonment filed in the United States Patent and Trademark Office on December 22, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed September 3, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

Randolph A Reese

cps/2/3/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED
AUG 3 0 2006
OFFICE OF PETITIONS

In re Patent No. 6,966,421	:	
Setsuo Makamura	:	DECISION ON REQUEST FOR
Issue Date: November 22, 2005	:	RECONSIDERATION OF
Application No. 10/228,072	:	PATENT TERM ADJUSTMENT
Filed: August 27, 2002	:	and
Atty Docket No. 023971-0164	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed January 9, 2006. Patentee requests that the patent term adjustment indicated in the patent be corrected from seventy-six (76) days to one hundred nine (109) days.

The request for reconsideration of patent term adjustment is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred nine (109) days.

On November 22, 2005, the application matured into U.S. Patent No. 6,966,421 with a revised patent term adjustment of 76 days. On January 9, 2006, patentee 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 109 days. Patentee disputes the reduction of 29 days for the filing of an Information Disclosure Statement (IDS) on November 12, 2004, after the mailing of the notice of

allowance on September 16, 2004. In effect, patentee asserts that the filing of this IDS falls within the exception under § 1.704(d).

It is noted that 4 days have been reduced for the filing of an IDS on December 11, 2004 - it is further noted that no IDS was filed on this date. As such, this entry is in error.

Pursuant to 37 CFR § 1.704(c)(10), the filing of a paper, including an IDS, after the mailing of the notice of allowance, is a failure to engage in reasonable efforts to conclude prosecution. However, § 1.704(d) provides that:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Contrary to Petitioner's assertion that the IDS filed on November 12, 2004 included a § 1.704(d) statement, the IDS has been reviewed, and no such statement has been located. As to this IDS, an attorney of record now states that:

> Applicant filed an Information Disclosure Statement on November 12, 2004 that included a statement that the information was first cited in a foreign patent office in a counterpart application on October 26, 2004.

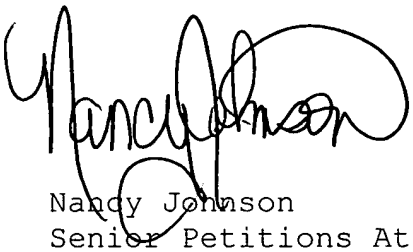
Under the circumstances of this case, it is concluded that the filing of the November 12, 2004 IDS will not cause a reduction of the PTA. Patentee did not fail to engage in reasonable efforts to conclude prosecution of the application by filing the IDS on November 12, 2004.

In view thereof, the patent should have issued with a patent term adjustment of one hundred nine (109) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED NINE** (109) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,966,421 B2

DATED : Novbember 22, 2005

INVENTOR(S) : Setsuo Nakamura

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 (76) days

Delete the phrase "by 76 days" and insert – by 109 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

JUL 12 2005

OFFICE OF PETITIONS

In re Application
Ishii et al.
Application No. 10/228,110
Filed: August 27, 2002
Atty Docket No. 03180.0306

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 9, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six (6) days to at least sixteen (16) 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 sixteen **(16)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 6 days. The period of adjustment of 136 days for Office delay was reduced by 130 days for applicant delay. On September 9, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is at least 16 days. Applicants dispute the reduction of 130 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed September 30, 2002. Applicants state that their response was received in the Office on April 29, 2003, and thus, the delay should have led to a reduction of 120 days, not 130 days.

[1] PALM records indicate that the Issue Fee was also received in the Office on September 9, 2004.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed September 30, 2002, is of record in the application with a date of receipt by the Office of April 29, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 136 days. However, the response was filed outside of the three-month period under 37 CFR 1.704(b), three months and 120 days later. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application, but only by 120 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is sixteen (16) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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Paper No.

Robert McKittrick
194 Waterman Lake Drive
Glocester RI 02814

MAILED

JUN 0 1 2010

OFFICE OF PETITIONS

In re Application of McKittrick
Application No. 10/228,178
Patent No. 6,984,224
Filed: August 26, 2002
Issue Date: January 10, 2006
Attorney Docket Number: 99809-00003
Title: GASTRIC TUBE APPARATUS AND METHOD OF INSERTING GASTRIC TUBE

DECISION ON PETITION UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on February 24, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on January 10, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on January 10, 2010, with no payment received. Accordingly, the patent expired on January 10, 2010 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely

payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;

(3) A statement that the delay was unintentional from a proper party in interest, and;

(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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4/21/03

Paper No. 7

Withrow & Terranova, P.L.L.C.
P.O. Box 1287
Cary, NC 27512

APR 22 2003

In re Application of :
Forster et al. :
Application No.: 10/228,180 :
Filing Date: August 26, 2002 :
Attorney's Docket No.: 4579-154A :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on February 24, 2003 under 37 C.F.R. § 1.102(d) requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

The petition is GRANTED.

MPEP § 708.02 II requires, besides a petition, petition fee and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has good knowledge of the pertinent prior art.

The petition filed February 24, 2003 has been considered and found to comply with all the requirements set forth in MPEP § 708.02 II. However, since the noted credit card payment form was not found, and there is no record of the $130.00 petition fee being paid, the petition fee has been charged to Deposit Account No. 50-1732 as authorized in the petition.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

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MAR 0 1 2010

OFFICE OF PETITIONS

In re Application of :
Mark BECK :
Application No. 10/228,182 : DECISION ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. **8820-91700** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 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, May 27, 2009, 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 August 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay. Accordingly, the response to the non-final office action of May 27, 2009 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

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 $555 extension of time fee submitted with the petition on November 30, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 2451 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **FITCH, EVEN, TABIN & FLANNERY**
120 SOUTH LASALLE
SUITE 1600
CHICAGO IL 60603-3406

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROWDY AND NEIMARK, P.L.L.C.
SUITE 300
624 NINTH STREET, N.W.
WASHINGTON DC 20001-5303

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DEC 20 2007

OFFICE OF PETITIONS

In re Patent No. 6,911,432 :
Issue Date: June 28, 2005 :
Application No. 10/228,195 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. ENOKI=1A :

This is a decision on the petition filed September 10, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. 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.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APR 7 2006

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
Liska : DECISION ON PETITION
Application No. 10/228,223 :
Filed: August 27, 2002 :
Atty. Dkt. No.: 0091-0218P :

This decision is in response to the petition under 37 CFR 1.181 filed March 6, 2006.

This application was held abandoned January 7, 2006 for failure to timely file a proper response to the Notice of Allowance (Notice) mailed October 6, 2005. The Notice set a three month statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioner states that the Notice in question was not received at the correspondence address of record for the instant application and further set forth that the Notice was returned to the Office after mailing as undeliverable.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication 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, petitioner has provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being directed to Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 18 2004

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

In re Application of	:	
Thomas J. Nilolai et al	:	
Application No: 10/228,230	:	NOTICE OF WTHDRAWAL
Filed: August 27, 2002	:	FROM ISSUE
Title: Repositionable and Recapturable Vascular Stent/Graft	:	UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to upatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 John E. Kittle at (703)308-0873.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle
Director
Technology Center 3700/2900

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/18/07 Paper No.: ____

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 7254873

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:

The proposed change to column 16, line 65 is not approved as "pat" doesn't appear in column 16, line 65.

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Hank F. Kung et al :
Application No. 10/228,275 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 1694.0400001/JMC/BLS :

This is a decision on the petition, filed March 1, 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 September 14, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN &FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Hank F. Kung et al :
Application No. 10/228,275 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 1694.0400001/JMC/BLS :

This is a decision on the petition, filed October 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 3, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of :
Colin C.O. Goble et al :
Application No. 10/228,284 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 2558-61 :

This is a decision on the petition, filed April 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 January 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3739 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : April 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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OFFICE OF PETITIONS

Applicant(s) :Colin C.O. Goble et al
Application No. :10/228,284
Filed :August 27, 2002

The above-identified application has been assigned Patent No. 6,878,148 and an issue date of April 12, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 12, 2005:

"All reference to Patent No. 6,878,148 to Colin C.O. Goble et al of United Kingdom for ELECTROSURGICAL SYSTEM appearing in the Official Gazette of April 12, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Paper No. 6

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of :
Oohashi, et al. :
Application No. 10/228,293 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. Q71547 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 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 26, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 27, 2002. A Notice of Abandonment was mailed on February 4, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 5

LELAND P. SCHERMER
LELAND SCHERMER & ASSOCIATES
7TH FLOOR
11 STANWIX STREET
PITTSBURGH, PA 15222

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of :
Mark S. Schneider :
Application No. 10/228,309 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. SCHNEID-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 25, 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 26, 2002. A Notice of Abandonment was mailed on January 16, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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LELAND P. SCHERMER
LELAND SCHERMER & ASSOCIATES
7TH FLOOR
11 STANWIX STREET
PITTSBURGH PA 15222

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OFFICE OF PETITIONS

In re Application of

Mark S. Schneider:

Application No. 10/228,309

Filed: August 27, 2002

Attorney Docket No. SCHNEID-001

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 2005, which set a shortened statutory period for reply of three (3) months. Extensions under 37 CFR 1.136(a) were available. Accordingly, the application became abandoned on July 8, 2005. A Notice of Abandonment was mailed on January 3, 2006.

The amendment filed October 5, 2007, is noted.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 3600, GAU 3611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Mark S. Schneider
1426 Mifflin Road
Pittsburgh, PA 15207-2216

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LELAND P. SCHERMER
LELAND SCHERMER & ASSOCIATES
7TH FLOOR
11 STANWIX STREET
PITTSBURGH PA 15222

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OCT 1 4 2009

OFFICE OF PETITIONS

In re Application of
Mark S. Schneider
Application No. 10/228,309
Filed: August 27, 2002
Attorney Docket No. SCHNEID – 001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 13, 2008.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/228,309	**Applicant(s)** SCHNEIDER, MARK S.	
	Examiner Daniel Yeagley	**Art Unit** 3611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   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: the application status is currently abandoned .

/Daniel Yeagley/
Examiner, Art Unit 3611

Continuation of 3. NOTE: the additional claim limitation of substantially all of said translational members extending rearward from said posts is considered a new issue that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: the references of record; such as Weil et al, is still considered to be readable on the claims as proposed.

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October 30, 2007

Auto ASP, Inc.
3350 Airport Road
Ogden, UT 84405

Patent No.: 6,929,286 B2
Application No.: 10/228,363
Inventor(s): Lance Bertelle, et al.
Issued: August 16, 2005
Title: **ENERGY ABSORBING LOOP COVER**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sally J. Brown
Autoliv ASP, Inc.
3350 Airport Road
Ogden UT 84405

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 6,929,286	:	
Issue Date: August 16, 2005	:	
Application No. 10/228,363	:	ON PETITION
Filed: August 26, 2002	:	
Attorney Docket No. 14143	:	

This is a decision on the petition filed November 8, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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 processing fee of $130 under 37 CFR 1.17(i) is charged to petitioner's deposit account No. 50-0532 as authorized by Sally Brown.

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.

David Bucci
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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042005

APR 13 2005

J.M. (Mark) Gilbreth
Gilbreth & Associates
P.O. Box 2428
Bellaire TX 77402-2428

In re Application of:
Denby Grey Morrison et al.
Serial No.: 10/228,385
Filed: August 26, 2002
For: APPARATUSES AND METHODS FOR MONITORING STRESS IN STEEL CATENARY RISERS

DECISION DISCARDING PROTEST UNDER 37 C.F.R. § 1.291

This is a decision refusing entry of the protest under 37 C.F.R. § 1.291, filed March 24, 2005. The protest is being discarded.

Pursuant to 37 CFR § 1.291, a protest against a pending application must be filed prior to the date of publication of that application or prior to the mailing of a notice of allowance under 37 C.F.R. § 1.311, whichever occurs first.

The instant application was published on February 26, 2004 as application publication No. USW20040035216A1. Accordingly, the protest, accompanied by the proof of service to the applicant, was not timely filed and is being discarded pursuant to M.P.E.P. § 1901.06.

The applicant may wish to consider submitting, if appropriate, under 37 C.F.R. § 1.97 and 37 C.F.R. § 1.56, the prior art cited in the protest.

A copy of this decision will be made of record.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ALEJANDRO PORRATA
2333 BRICKNELL AVENUE #TD
MIAMI FL 33129

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Alejandro Porrata et al. :
Application No. 10/228,395 :
Filed: August 27, 2002 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Final rejection mailed March 22, 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 above-identified application became abandoned on June 23, 2006.

37 CFR 1.33(b)(4) states:

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 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.

Application No. 10/228,395

MPEP 714.01(a) states:

An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant. 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.

As all the named inventors have not signed the petition filed under 1.137(b) it is not being treated on its merits. Likewise, the amendment filed with the petition cannot be accepted in the absence of the signatures of all the named inventors. See 37 CFR 1.33(b)(4). The filing of a renewed petition bearing the signatures of all the named inventors will be construed as a ratification of all papers filed to date; however from this time on all named inventors must sign all forthcoming papers.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

CC: Alejandro Porrata
3881 NW 58th Street
Boca Raton, FL 33496

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ALEJANDRO PORRATA
2333 BRICKNELL #TD
MIAMI FL 33129

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JUL 09 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Humberto Porrata et al :
Application No.10/228,395 :
Filed: August 27, 2002 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Final rejection mailed March 22, 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 above-identified application became abandoned on June 23, 2006.

A 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 grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Since the remarks submitted March 20, 2007 does not prima facie place the application in a condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the Advisory action accompanying this paper.

Since the reply also did not provide a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b), the renewed petition is considered to not contain a proper reply.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Encl. Advisory action Before the Filing of an Appeal brief form PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/228,395	**Applicant(s)** PORRATA ET AL.	
	Examiner MICHAEL BROWN	**Art Unit** 3772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: claims 1-24 remain finally rejected.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: __.

/Michael Brown/
Primary Examiner, Art Unit 3772

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MAR 17 2010

OFFICE OF PETITIONS

Alejandro Porrata
2333 Bricknell Avenue #TD
Miami FL 33129

In re Application of :
Alejandro Porrata et al. :
Application No. 10/228,395 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 03, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 22, 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) was obtained. Accordingly, the above-identified application became abandoned on June 23, 2006.

37 CFR 1.33(b)(4) states:

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 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.

MPEP 714.01(a) states:

An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Application No. 10/228,395

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.

As all the named inventors have not signed the petition filed under 1.137(b), therefore, it is not being treated on its merits. Likewise, the amendment filed with the petition cannot be accepted in the absence of the signatures of all the named inventors. See 37 CFR 1.33(b)(4). A renewed petition bearing the signatures of all the named inventors is required.

Since all the named inventors have not signed the amendment filed September 03, 2009, the renewed petition is considered to not contain a proper reply. 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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Miranda Le at (571) 272-4112 or in her absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
Suite 400
280 North Old Woodward
Birmingham, MI 48009

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OFFICE OF PETITIONS

In re Application of :
R. Charles Murray :
Application No. 10/228,430 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. PPI-12502/08 :

This is a decision on the petition, filed February 15, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 27, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on February 10, 2005. In response, on February 15, 2005, the present petition was filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1761 for consideration of the response filed February 15, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARYANN B. ZIMMERMAN
5296 BAGPIPERS LANE
VIRGINIA BEACH VA 23464

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,905,487 :
Issue Date: June 14, 2005 :
Application No. 10/228,445 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. ZIMM:02-01 :

This is a decision on the petition under 37 CFR 1.378(c), filed August 5, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of **$400** as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks items (1), (2) and (3) above.

The petition does not include any statement of unintentional delay. The petition does not include the maintenance fee due at 3 ½ years (currently **$490**) or the petition surcharge (currently **$1,640**).

Petitioner's comment regarding the $380 the Office has not returned has been investigated. Office records show the $175 fee paid February 12, 2009 was refunded on April 15, 2009 and the $380 fee paid April 27, 2009 was refunded on July 10, 2009, via treasury checks. Therefore, the Office is not holding any maintenance fees paid by petitioner, they have all been refunded.

Enclosed is a copy of form PTO/SB/66, Petition to Accept Unintentionally Delayed Payment of Maintenance Fees in an Expired Patent (37CFR 1.378(c)) for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Carl Friedman at (703) 571-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: form PTO/SB/66

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

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OFFICE OF PETITIONS

Energy Conversion Devices, Inc.
2956 Waterview Drive
Rochester Hills, MI 48309

In re Application of :
Ovshinsky et al. :
Application No. 10/228,542 : DECISION ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 2079 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed June 15, 2005, which set a three-month shortened statutory period to respond. Accordingly, the application became abandoned on September 16, 2005. A Notice of Abandonment was mailed on December 27, 2005.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Application No. 11/376,997, filed March 16, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

Michael L. Serpa
P.O. Box 478
San Francisco, CA 94104-0478

MAILED

OCT 17 2002

Technology Center 2100

In re Application of :
Michael L. SERPA
Application No. 10/228,551
Filed: August 27, 2002
For: SYSTEM AND METHOD FOR USER AUTHENTICATION WITH ENHANCED PASSWORDS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed August 27, 2002 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to a system and method for user authentication with enhanced passwords which does not directly relate to countering violent act or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. This does not persuasively establish that the invention represents an advancement in the field of countering terrorism.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Security, Architecture and Software
703-305-9750

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of :
BROWN, et al. :
Application No. 10/228,557 : DECISION ON PETITION
Filed: August 27, 2002 : TO WITHDRAW
Attorney Docket No. 026544-000300US : 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 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BLAKELY SOKOLOFF TAYLOR & ZAFMAN has been revoked by the assignee of the patent application on November 07, 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 first copied address listed below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW, LLP**
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

cc: **STEPHEN F. JEWETT**
TOWNSEND AND TOWNSEND AND CREW, LLP
1200 SEVENTEETH STREET
SUITE 2700
DENVER, CO 80202

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/228,557	08/27/2002	Robert Allen Brown	004524.P083

CONFIRMATION NO. 8236

OC000000021579554

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 12/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

UNISYS CORPORATION
Unisys Way
Mail Station E8-114
Blue Bell PA 19424

In re Application of:
REED, JOHN E. JR., et al.
Application Serial No.: 10/228,566
Filed: August 27, 2002
For: **METHOD AND SYSTEM FOR MULTILINGUAL DISPLAY GENERATION**

DECISION ON PETITION

This is a decision on the petition filed March 05, 2008 under 37 CFR § 1.181 requesting a refund of $400 for the petition fee under 1.17(f) and a refund of $1050 for the petition for a 3-month extension for consideration of the accompanying response and to designate the application as being under appeal with the Reply Brief having been a proper response to the Primary Examiner's improper reopening of prosecution.

In support of the petition, petitioner submits as a statement of facts the following:

> "On September 5, 2007, Examiners Edouard and Spooner re-opened prosecution in an Office Action that stated Applicant must either file a reply under 37 CFR §1.111 or request re-instatement of the appeal, with reference to 37 CFR.§1.193(b)(2). 37 CFR.§1.193(b)(2) did not exist at the time of the Office Action. The Office Action contained a new grounds of rejection and was non-final.
>
> Applicants filed a Reply Brief on October 25, 2007. The Reply Brief stated that Applicants believed that the current appeal rules did not permit prosecution to be reopened by the Examiners, Applicants requested that the appeal be maintained under 37 CFR §41.39(b)(2). The Reply Brief responded to the Examiners' new grounds of rejection."

The following Rule and Regulation applies:

> MPEP § 1207.04 [R-3] < Reopening of Prosecution After Appeal
>
> The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement

under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). >Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.<

After reopening of prosecution, appellant must exercise one of the following options to avoid abandonment of the application:
(A) file a reply under 37 CFR 1.111, if the Office action is non-final;
(B) file a reply under 37 CFR 1.113, if the Office action is final; or
(C) **> initiate a new appeal by filing a new notice of appeal under 37 CFR 41.31<.

37 CFR § 1.193 [Reserved]

[24 FR 10332, Dec. 22, 1959; 34 FR 18858, Nov.26, 1969; para. (c), 47 FR 21752, May 19, 1982, added effective July 1, 1982; para. (b), 50 FR 9382, Mar. 7, 1985, effective May 8, 1985; 53 FR 23735, June 23, 1988, effective Sept. 12, 1988; para. (c) deleted, 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (b) revised, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b)(1) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a)(1) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; removed and reserved, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

A review of the file record indicates a non-final office action after a notice of appeal was sent on September 5, 2007. In accordance with MPEP 1207.04, "The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed." The non-final office action was signed by Supervisor Patrick N. Eduard. Therefore the filing of the non-final office action is a proper response in accordance with MPEP 1207.04. However, upon further review of the non-final office action, the action cited as an option to be exercised in order to avoid abandonment the following statement (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2). It is noted Rule 37 CFR 1.193 at the time of the non-final rejection has been removed and reserved effective September 13, 2004. Therefore, the guidance provided by the non-final office action is improper and all of the communications since are improper.

Accordingly, the petition to designate the application as being under appeal with the Reply Brief having been a proper response to the Primary Examiner's improper reopening of prosecution is **DISMISSED**.

The petition to refund $400 for the petition fee under 1.17(f) and refund $1050 for the petition for a 3-month extension is **GRANTED**.

The Reply Briefs filed October 25, 2007 and concurrently with this petition are vacated. The Notice of non responsive reply mailed February 4, 2008 is vacated. The non-final office action of September 5, 2007 is vacated. The file is being returned to the Tech Center Support Staff for a refund of $1450 and then to the examiner for a new response to the Appeal Brief filed May 11, 2007.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

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ALEXANDRIA, VA 22313-1450
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James Shay
Wilson Sonsini Goodrich Rosati
650 Page Mill Road
Palo Alto, CA 94304

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Amir Belson :
Application No. 10/228,583 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 514812000101 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 3700 for processing the Request for Continued Examination under 37 CFR 1.114 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

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BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE, SUITE 1030
MILWAUKEE, WI 53202

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APR 2 8 2006

OFFICE OF PETITIONS

In re Application of
Christoph Froehlich et al
Application No. 10/228,600
Filed: August 27, 2002
Attorney Docket No. 696.001

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 1, 2005.

The petition 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 reason for withdrawl was not indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

This application is being referred to Technology Center AU 2877 to await a reply to the non-final Office action mailed march 8, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

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Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
John G. Meyers, et al. :
Application No. 10/228,617 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 42P13103 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 27, 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 at midnight on November 27, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/21/05

TO SPE OF : ART UNIT 3652

SUBJECT : Request for Certificate of Correction on Patent No.: 6,817,826

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 3600~~

SPE

3652
Art Unit

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Paper No. 8

PAUL J. FARRELL, ESQ.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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MAR 25 2004

OFFICE OF PETITIONS

In re Application of
Pan-Yuh JOO
Application No. 10/228,659
Filed: August 27, 2002
Attorney Docket Number: 678-917(P10420)

ON PETITION

This is a decision on the petition filed March 4, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on December 5, 2002, for failure to file a timely response to the Notice to File Missing Parts mailed October 4, 2002, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 18, 2004.

Petitioner asserts that the Notice to File Missing Parts was never received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Notice to File Missing Parts mailed October 4, 2002, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

statement.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners have not presented any evidence that would indicate that the Office communication was not received. What is usually required is a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. As the required showing has not been presented, the petition must be dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

---

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

As the showing of record, petitioner's bald assertion that the Notice to File Missing Parts was never received, is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $665.00 for a small entity and $1330.00 for a large entity.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 10

PAUL J. FARRELL, ESQ.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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MAY 07 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Pan-Yuh JOO
Application No. 10/228,659
Filed: August 27, 2002
Attorney Docket Number: 678-917(P10420)

This is a decision on the petition filed April 20, 2004, styled "Petition to Withdraw Holding of Abandonment", which is treated as a Request for Reconsideration of the decision under 37 CFR 1.137(a)[1] mailed March 25, 2004.

The petition is **GRANTED**.

The application became abandoned on December 5, 2002, for failure to file a timely response to the Notice to File Missing Parts mailed October 4, 2002, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 18, 2004. A petition to revive under 37 CFR 1.137(a) filed March 4, 2004, was dismissed in a decision mailed March 25, 2004.

Petitioner asserts that the Notice to File Missing Parts was never received.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]35 U.S.C. § 133.

the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The file record discloses that the Notice to File Missing Parts mailed October 4, 2002 to the address of record. However, petitioner contends that it was not received. In support of this contention, a statement made by Paul J. Farrell, attorney of record, explaining the docketing procedure, including a page from the docketing system, wherein receipt of the Notice to File Missing Parts would have been entered, had it been received, accompany the petition. Petitioner also includes copies from the docketing system with respect to other patent applications in which Notices to File Missing Parts were received from the USPTO to demonstrate the docketing system and that similarly received "Notices" were received and docketed. The statement and attachments corroborate non-receipt of the Notice to File Missing Parts.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing Parts was never received. Accordingly, the holding of abandonment is withdrawn. Since no petition fee is due, a refund in the amount of $130.00[4] will be credited to deposit account 04-1121 for the instant petition filed April 20, 2004.

Receipt of the response to the Notice to File Missing Parts mailed October 4, 2002, in the form of a properly executed Declaration and Power of Attorney and a substitute specification in compliance with 37 CFR 1.52, is acknowledged as having been received March 4, 2004.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] $110 paid by check with the instant petition and $20.00 charged to deposit account.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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FEB 24 2003

Technology Center 2100

Paper No. 5

Alan S. Hodes
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of: Jeffrey Vinson, et al.
Application No. 10/228,680
Filed: August 26, 2002
For: METHOD AND APPARATUS TO ALLOW REMOTELY LOCATED COMPUTER PROGRAMS AND/OR DATA TO BE ACCESSED ON A LOCAL COMPUTER IN A SECURE, TIME-LIMITED MANNER, WITH PERSISTENT CACHING

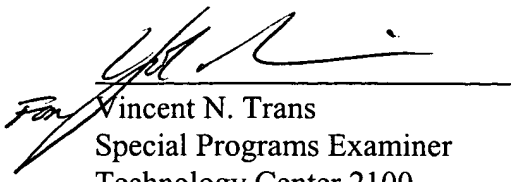
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed November 13, 2002.

A Revocation and Substitution Of Power of Attorney Under 37 CFR § 1.36 was filed on November 12, 2002. The Power Of Attorney revoked all prior Powers of Attorney and appointed Jackson & Co. LLP as the attorneys of record of the instant application. The Power of Attorney of November 12, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Jackson & Co. LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.



For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Jackson & Co., LLP
6114 La Salle Ave., Ste. 507
Oakland, CA 94611-2802

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACKSON & CO., LLP
6114 La Salle Ave., Ste. 507
Oakland, CA 94611-282

MAILED

MAR 11 2005

Technology Center 2100

In re Application of:
Jeffrey VINSON, et al.
Application No. 10/228,680
Filed: August 26, 2002
For: METHOD AND APPARATUS TO ALLOW REMOTELY LOCATED COMPUTER PROGRAMS AND/OR DATA TO BE ACCESSED ON A LOCAL COMPUTER IN A SECURE, TIME-LIMITED MANNER, WITH PERSISTENT CACHING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed August 31, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on November 19, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Perkins Coie, LLP as the attorneys of record of the instant application. The Power of Attorney of November 19, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Perkins Coie, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: PERKINS COIE LLP
P.O. Box 2168
Menlo Park, CA 94026

10/228694

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5/12/05 Paper No.: _____

TO : Supervisor, Art Unit 2862

SUBJECT : Certificate of Correction Request in Patent No.: 6,784,663

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ YES ☐ NO

☐ Comments: _____

_____

_____

_____

_____

Supervisor

2862
Art Unit

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SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Leonard Forbes	:	
Application No. 10/228,703	:	DECISION GRANTING PETITION
Filed: August 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1303.071US1	:	

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of
THOMAS, et al.
Application No. 10/228,715
Filed: August 27, 2002
Attorney Docket No. SC11753ZP

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 20, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or **no statement under 3.73(b) was filed**. In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DILLON & YUDELL LLP**
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of
THOMAS, et al.
Application No. 10/228,715
Filed: August 27, 2002
Attorney Docket No. SC11753ZP

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 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 Notice of Non-Compliant Amendment, mailed December 15, 2005. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 16, 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 and replacement drawings; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Craig J. Yudell 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. Craig J. Yudell desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. The Revocation of Power of Attorney filed October 20, 2006 is not accepted because the required Statement under 37 CFR 3.73(b) was not concurrently filed. A courtesy copy of this decision is being mailed to 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.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 2811 for consideration of the amendment filed September 27, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **CRAIG J. YUDELL**
DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN, TX 78759

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070613

DATE : June 13, 2007

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction on Patent No.: 7,192,785 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Long Le **Art Unit** 1641

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHIEF PATENT COUNSEL
ENGELHARD CORPORATION
101 WOOD AVENUE – P.O. BOX 770
ISELIN, NJ 08830-0770

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Victor Rosynsky et al :
Application No. 10/228,754 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 4596B DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 26, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 27, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on July 27, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1762 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

In re Application of:			
Callaway et al.		Group No.:	1631
Serial No.:	10/228,759	Examiner:	Unknown
Filed:	August 26, 2002	Docket No.	PRICE1240-3

For: MANAGING IMAGES OF MICROSCOPIC SPECIMENS

CERTIFICATION UNDER 37 CFR § 1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date 26 December 2002, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

26 December 2002 — Terrance A. Meador
Date — Signature

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO CORRECT INVENTORSHIP IN A PENDING PATENT APPLICATION UNDER 37 CFR 1.48

Applicants hereby petition to correct inventorship in U.S. Patent Application Serial No. 10/228,759 as follows:

delete Jeffrey H. Price.

The inclusion of Jeffrey H. Price as a co-inventor occurred through an error which arose without any deceptive intention.

A Statement pursuant to 37 CFR §1.48(a)(2), a Supplemental Declaration pursuant to 37 CFR §1.48(a)(3), and written consent of assignee pursuant to 37 CFR §1.48(a)(5) accompany this paper.

01/02/2003 MDANTE1 00000022 10228759
01 FC:1460 130.00 DP

The fee required under 37 CFR 1.17(i) accompanies this paper. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-2258. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Terrance A. Meador

Date: 26 December 2007

TERRANCE A. MEADOR
Reg. No. 30,298

GRAY CARY WARE & FREIDENRICH
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

Telephone: (858) 638-6747 Fax: (858) 638-6727

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROSEMER, KOLEFAS & ASSOCIATES, LLC - (LUCENT)
1 BETHANY ROAD
BUILDING 4 - SUITE # 58
HAZLET NJ 07730

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Christopher Doerr et al. :
Application No. 10/228,800 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 61-4-6-6 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 23, 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 July 14, 2006. A response was filed November 14, 2006 with a one month extension of time request, but by Advisory Action of December 21, 2006, petitioner was advised that the response did not place the application in condition for allowance. Although a second amendment was filed January 17, 2007, with an extension of time, it was filed outside the maximum period obtainable and thus the application became abandoned on January 16, 2007. Accordingly, a Notice of Abandonment was mailed March 22, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2613 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

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KING & PARTNERS PLC
170 COLLEGE AVE
SUITE 230
HOLLAND MI 49423

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of
Richard Buitenhuis :
Application No. 10/228,825 : DECISION ON
Filed: August 27, 2002 : PETITION
Attorney Docket No. BUI-011011 C1 :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 11, 2005.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the final Office action mailed July 9, 2004. No response having been received, the application became abandoned on October 10, 2004. A Notice of Abandonment was mailed on February 10, 2005.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Mailing under 37 CFR 1.8 dated November 23, 2004. An authorization to charge a two month extension of time to Deposit Account No. 50-2131 was contained in the Amendment.

Given the basis for granting this petition, no petition fee was required.

However, as the deposit account was never charged the $215 fee for the two month extension of time, that fee has now been charged to the deposit account.

The application file is being forwarded to Group Art Unit 3723 for consideration of the Amendment (Certificate of Mailing dated November 23, 2004), a copy of which has been supplied with the instant petition.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:35

DATE : June 25, 2009

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 7166896

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Wael Fahmy **Art Unit** 2814

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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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Truckai, et al. :
Application No. 10/228,857 :
Filed: August 27, 2002 :
Attorney Docket No. 022356-000400US :
For: ELECTROSURGICAL DEVICE AND METHOD OF USE

ON PETITION

This is a decision on the petition, filed March 22, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 13, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 14, 2005. A Notice of Abandonment was mailed on January 23, 2006.

Applicants have submitted an amendment in reply to the July 13, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 13, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3739 for consideration of the amendment filed on March 22, 2006.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE
SUITE 250
ALISO VIEJO, CA 92656

MAILED

JUN 0 5 2005

Technology Center 2100

In re Application of:
Douglas E. LIPPINCOTT
Application No. 10/228,891
Filed: August 27, 2002
For: TOUCHSCREEN WITH INTERNAL STORAGE AND INPUT DETECTION

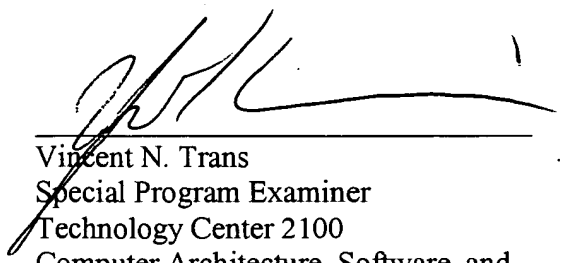
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 11, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-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

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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STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

MAILED

JUL 12 2005

Technology Center 2100

In re Application of:
Douglas E. LIPPINCOTT
Application No.: 10/228,891
Filed: August 27, 2002
For: TOUCHSCREEN WITH INTERNAL STORAGE AND INPUT DETECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 20, 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**.

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 : Douglas E. Lippincott
8381 Katella Avenue
Stanton, CA 90680

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of :
Stephen F. Badylak, Robert S. Tullius, Nathan Huber, :
Kristina Lindberg, and Alan R. Spievack :
Application No. 10/228,927 : DECISION ACCORDING STATUS
Filed: August 27, 2002 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket No. 3220-71381 :
Title: TISSUE REGENERATIVE COMPOSITION :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 8, 20032.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on August 27, 2002, identifying Stephen F. Badylak, Robert S. Tullius, Nathan Huber, Kristina Lindberg, and Alan R. Spievack as joint inventors. On October 2, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[3] 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.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, a four month extension of time, to make timely this response, and a declaration executed only by joint inventor Huber.

Accompanying the petitions was a statement from the attorney of record and copies of letters from each of the non-signing inventors.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The petition contained a certificate of mailing dated April 2, 2003.

3 The declaration was executed by inventors Campbell, Wong, and Barajas.

The documents submitted establish that a copy of the application was sent to each of the non-signing inventors, and their conduct indicates that they have refused to join in the 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(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Kristina Lindberg
1838 King Elder Drive
West Lafayette, Indiana 47906

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of
Stephen F. Badylak, Robert S. Tullius, Nathan Huber, Kristina Lindberg, and Alan R. Spievack
Application No. 10/228,927
Filed: August 27, 2002
Attorney Docket No. 3220-71381
Title: TISSUE REGENERATIVE COMPOSITION

LETTER

Dear Ms. Lindberg:

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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Robert S. Tullius
11209 South State Road 43
Brookston, Indiana 47923

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of
Stephen F. Badylak, Robert S. Tullius, Nathan Huber,
Kristina Lindberg, and Alan R. Spievack
Application No. 10/228,927
Filed: August 27, 2002
Attorney Docket No. 3220-71381
Title: TISSUE REGENERATIVE COMPOSITION

LETTER

Dear Mr. Tullius:

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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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Alan R. Spievack
6 Old Dee Road
Cambridge, Massachusetts, 02138

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of :
Stephen F. Badylak, Robert S. Tullius, Nathan Huber, :
Kristina Lindberg, and Alan R. Spievack :
Application No. 10/228,927 : LETTER
Filed: August 27, 2002 :
Attorney Docket No. 3220-71381 :
Title: TISSUE REGENERATIVE COMPOSITION :

Dear Mr. Spievack:

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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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Washington, D.C. 20231
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Stephen F. Badylak
1150 Kingwood Road, South
West Lafayette, Indiana 47906

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of
Stephen F. Badylak, Robert S. Tullius, Nathan Huber,
Kristina Lindberg, and Alan R. Spievack
Application No. 10/228,927
Filed: August 27, 2002
Attorney Docket No. 3220-71381
Title: TISSUE REGENERATIVE COMPOSITION

LETTER

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MAY 14 2003

OFFICE OF PETITIONS

Dear Mr. Badylak:

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 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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

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MAY 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Stephen F. Badylak et al :
Application No. 10/228,927 : NOTICE
Filed: August 27, 2002 :
Attorney Docket No. 3220-71381

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 1636.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Badylak et al.	:	DECISIONS ON PETITIONS
Application No. 10/228,927	:	UNDER 37 CFR 1.78(a)(3)
Filed: August 27, 2002	:	AND 1.78(a)(6)
Attorney Docket No. 3220-71381	:	

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed September 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional Applications Nos. 09/691,345 and 09/691,590, filed October 18, 2000, and the prior-filed provisional Application No. 60/171,733, filed December 22, 1999, set forth in the concurrently filed amendment.

The petitions are **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should 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. § 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt

[1] 37 CFR 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Because the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3) and (a)(6), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3) and (a)(6).

accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney 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 matter is being referred to Technology Center Art Unit 1636 for appropriate action on the amendment submitted September 26, 2005, including consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional Applications Nos. 09/691,345 and 09/691,590, filed October 18, 2000, and for consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application No. 60/171,733, filed December 22, 1999.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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MAY 16 2006

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	
Stephen F. Badylak et al	:	
Serial No.: 10/228,927	:	SUSPENSION OF ACTION
Filed: August 27, 2002	:	
Attorney Docket No.: 3220-71381	:	

This is in response to the paper entitled "Request for Suspension of Action" which is being treated as a petition under 37 CFR 1.103, filed January 12, 2006, to suspend prosecution of the above identified application for six months.

Applicants seek suspension of prosecution in this application for a period of six months in view of court proceedings which may render an interference moot.

DISCUSSION

In a letter mailed to applicants on December 14, 2005, the examiner in charge of this application *sua sponte* suspended action thereon for a period of six months in view of a potential interference. Applicants' petition for suspension of action is therefor moot as prosecution has been suspended by action of the Office.

DECISION

The petition to suspend action is DISMISSED as moot.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 26 2006

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of :
Stephen F. Badylak et al :
Serial No.: 10/228,927 : SUSPENSION OF ACTION
Filed: August 27, 2002 :
Attorney Docket No.: 3220-71381 :

This is in reply to the petition under 37 CFR 1.103 to suspend action in this application at applicant's request for a period of six months, filed June 15, 2006.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants request suspension of action in this application to begin on a date just prior to potential declaration of an interference and to last for a period of six months and give as a reason for requesting suspension that issues in this application related to priority/inventorship/assignment relate to a Federal Court Proceeding filed by Purdue Research Foundation to which applicants have an obligation of assignment.

It is noted that this is the second time applicants have requested suspension of action for this reason (the first request was dismissed in view of a *sua sponte* suspension by the examiner) and that applicants give no indication as to progress of the Federal Court case or when a decision therein may be expected or how this application may be affected by such a decision. Applicants also make the request conditional upon an Office decision to institute an interference.

Applicants' purported reasons do not appear to rise to the level of "good and sufficient cause" since it appears applicants have an obligation to assign their invention to the plaintiff in the Federal Court case and no explanation has been given as to how such case affects this application. The Office also does not grant "conditional" petitions for suspension based on a pending or future Office action.

In view of the above the petition for suspension of action is **DENIED**.

The application will be forwarded to the examiner for further action, as appropriate.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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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ANTHONY WATERS
1031 NW 106
MIAMI FL 33150

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Anthony Waters : DECISION GRANTING PETITION
Application No. 10/228,930 :
Filed: August 27, 2002 :
Attorney Docket No. TLA00,14.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 13, 2005, for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on January 12, 2005, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on May 20, 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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Low et al.
Application No.10/228,933
Filed: August 27, 2002
Attorney Docket No. 2037.2026-000

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed April 8, 2003 (certificate of mailing date April 2, 2003).

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 27, 2002, without an executed oath or declaration. Accordingly, on October 2, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of December 2, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted. In support of the petition, applicants submitted the declaration of Michael Vladescu, Director of intellectual Property for the assignee, Terms of Employment signed by the non-signing inventor, assignment documents and copies of correspondence to the non-signing inventor.

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 (2).

As to item (2), the last known address provided in the petition differs from the address provided on the declaration. Non-signing inventor Low's address can be corrected via a supplemental declaration or an application data sheet. See 37 CFR 1.67 and 37 CFR

1.76.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
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

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JUN 23 2003

OFFICE OF PETITIONS

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

In re Application of
Arthur Low, Neil Hamilton, and Hafid Zaabab
Application No.10/228,933
Filed: August 27, 2002
Attorney Docket No. 2037.2026-000
Title of Invention: APPARATUS FOR CALCULATING AND ENCRYPTION

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed June 18, 2003 under 37 CFR. §1.47(a).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Arthur Low, 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. Petitioner has provided evidence the application papers were received. The non-signing inventor has indicated he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Arthur J. Low
23 Adamson Road
Chelsea, Quebec JB9 2J4
Canada

COPY MAILED

JUN 23 2003

OFFICE OF PETITIONS

In re Application of
Arthur Low, Neil Hamilton, and Hafid Zaabab
Application No.10/228,933
Filed: August 27, 2002
Attorney Docket No. 2037.2026-000
Title of Invention: APPARATUS FOR CALCULATING AND ENCRYPTION

LETTER

Dear Mr. Low:

You are named as a co-inventor In the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice In Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper In the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record In the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining In the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Caroline M. Fleming
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

JUN 15 2007

OFFICE OF PETITIONS

In re Application of
Takemoto
Application No. 10/228,949
Filed: August 28, 2002

Attorney Docket: Q69310

Title of Invention: Print Order System, Printing System, Order Terminal, and Programs Therefor

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) to revive the application filed on May 15, 2007. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 .

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on April 27, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 27, 2006. A Notice of Abandonment was mailed on April 19, 2007.

Petitioner asserts that the non-final Office action on April 27, 2006 was never received. Petitioner states a search of the file jacket and docket records confirms the non-final Office action was not received. In support of petitioner's contention, a copy of the docket records has been provided.

A review of the record shows there was irregularity in the mailing of the non-final Office Action. The non-final Office action was returned to the Office for an unknown reasons.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 2625 for re-mailing of the non-final Office Action to the correspondence address of record. The extendable three month time period for reply will be set to run from the mailing date of the new non-final Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

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JAN 07 2003

OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of
Choi et al.
Application No. 10/228,965
Filed: August 28, 2002
Attorney Docket No.: Q70407

ON PETITION

This is a decision on the petition filed November 12, 2002, requesting that the above-identified application be accorded a filing date of August 28, 2002 with figures 6(c) and 6(d) as part of the original application disclosure.

The application was filed on August 28, 2002. However, on September 24, 2002, the Office of Initial Patent Examination mailed a "Notice Of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a filing date of August 28, 2002 and advising applicant that figures 6(c) and 6(d) described in the specification appeared to have been omitted.

In response, the present petition was filed on November 12, 2002 wherein petitioner contends figures 6(c) and 6(d) were filed August 28, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists "Dwg. Sheets 8". The petition is further accompanied by substitute drawings of figures 6(c) and 6(d).

Applicant's postcard receipt is prima facie evidence that 8 sheets of drawings including 1 sheet containing figures 6(c) and 6(d) were received on August 28, 2002, but figures 6(c) and 6(d) were not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that one sheet of drawings containing figures 6(c) and 6(d) were received on August 28, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted.

Since original figures 6(c) and 6(d) cannot be located in the Office, figures 6(c) and 6(d) supplied on November 12, 2002, will be used for processing and examination purposes. The copies of the other drawing sheets supplied on November 12, 2002 will not be used for processing or examination but will be retained in the application file.

Deposit account no. 19-4880 will be credited with the $130.00 petition fee.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 28, 2002, using application papers filed on August 28, 2002 and the 1 sheet of drawing including figures 6(c) and 6(d) supplied

on November 12, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/5/06

TO SPE OF : ART UNIT - 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229017 Patent No.: 7005180

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ SPE

1772 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBER/KALER c/o ROYAL W. CRAIG
120 EAST BALTIMORE STREET
SUITE 800
BALTIMORE, MD. 21202

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
Scott Corey et al :
Application No. 10/229,030 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 207724US23 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 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 July 10, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment dated July 10, 2007 that prima facie places the case in condition for allowance, as per inquiry with SPE Brian Casler, Art Unit 3737; (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Technology Center AU 3737 for processing of the amendment, and for appropriate action by the Examiner in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

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FEB 10 2003

OFFICE OF PETITIONS

In re Application of
Arimoto et al.
Application No. 10/229,035
Filed: August 28, 2002
Attorney Docket No. 57454-679

DECISION GRANTING PETITION

This is a decision on the petition filed December 12, 2002, requesting that the above-identified application be accorded a filing date of August 28, 2002, with pages 66 and 86 of the specification as part of the original disclosure.

On August 28, 2002, applicants filed the above-identified application. On September 27, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of August 28, 2002, and advising applicants that pages 66 and 86 of the specification appeared to have been omitted. In response, on December 12, 2002, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 162 pages of specification on August 28, 2002. Additionally, applicants submitted a copy of pages 66 and 86 of the specification with the present petition.

Upon review of the record, pages 66 and 86 of the specification, deposited on August 28, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 28, 2002, included pages 66 and 86 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 66 and 86 of the specification, was complete on filing and will be granted a filing date of August 28, 2002.

Accordingly, the petition is granted. No petition fee is necessary. The Notice of September 27, 2002, was sent in error and is hereby vacated.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 28, 2002, using pages 1-65, 67-85, and 87-162 of the specification submitted on August 28, 2002, and pages 66 and 86 submitted with the petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/229,080	08/28/2002	Hidehisa Makita	03500.016659.

CONFIRMATION NO. 9208

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

FORMALITIES LETTER

OC000000008869621

Date Mailed: 09/30/2002

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(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE 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. 5

WILLIAM L. MATHIS
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Daniel Pinkel et al :
Application No. 10/229,158 : NOTICE
Filed: August 28, 2002 :
Attorney Docket No. 032477-023 :

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 1634.

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

Paper No. None

Finnegan Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Yuichi Iwase et al. :
Application No. 10/229,165 : DECISION ON PETITION
Filed: August 28, 2002 : UNDER 37 C.F.R. § 1.137(a)
Attorney Docket No.: 05711.0151 :
Title: SLIDE FASTENER :

This is a decision on the petition under 1.137(a)[1], filed December 17, 2004, 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 March 4, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 5, 2004. A Notice of Abandonment was mailed October 20, 2004.

With the instant petition, Petitioner has submitted the required reply, as well as the petition fee and documentary evidence which establishes that the entire period of delay was unavoidable.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for review of the response to the non-final office action, submitted concurrently with this petition.

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the 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;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 14 2005

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Sandeep K. Gupta :
Application No. 10/229,175 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 1875.3210000 :

This is a decision on the petition, filed March 8, 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 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2817 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/13/05

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6,859,031 10/229181

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.

G. Green

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:

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SPE — **Art Unit** 2812

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 2, 2007

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No. 10/229182 patent no. 6648239

Please respond to this request for a certificate of correction within 7 days.

Cont. data

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

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_____ 3752

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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dlw 02-04

WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS NV 89128

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FEB 04 2004

OFFICE OF PETITIONS

In re Application of :
Vanek et al. :
Application No. 10/229,184 : ON PETITION
Filed: 26 August, 2002 :
Attorney Docket No. FLATAU.0004P :

This is a decision on the petition, filed on 15 January, 2004, which is treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 29 October, 2003, for failure to timely file corrected drawings in response to the Notice of Allowance mailed on 28 July, 2003, which set a three (3) month period for reply. Notice of Abandonment was mailed on 19 December, 2003.

Petitioner asserts that corrected drawings were timely filed. In support of the petition, petitioner submits a copy of the six (6) sheets of drawings said to have been mailed to but not received in the U.S. Patent and Trademark Office. Also included is a postcard, bearing an Office-date stamp of 23 October, 2003, and identifying the application by application number, first named inventor's name, invention title, and attorney docket number. The postcard itemizes the filing of six (6) sheets of drawings. Petitioners have also included a copy of a transmittal letter itemizing the filing of six (6) sheets of drawings bearing a certificate of mailing dated 20 October, 2003, and signed by petitioners' registered patent counsel, R. Scott Weide. The petition also contains a statement by petitioners' counsel that the response was timely filed.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 19 December, 2003, was sent in error and is vacated. No petition fee is due and none has been charged.

This application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

In re Application of
Chester F. Vanek, et al.
Serial No. 10/229,184 : Decision *sua sponte* Withdrawing the
Filed: 08/26/2002 : Holding of Abandonment
For: Motorized Multi-Shot Toy Ring Airfoil Launcher

On 19 December 2003 a Notice of Abandonment was mailed for failure to respond to the file corrected drawings.

A review of the record now shows corrected drawings filed 15 January 2004. The application should not have been held under abandonment.

The Notice of Abandonment was issued in error. Accordingly, the Notice of Abandonment is withdrawn, the holding of Abandonment is vacated and the application restored to pending status. The file will be forwarded to the examiner for processing in due course.

Derris H. Banks
Supervisory Patent Examiner
Art Unit 3712, TC 3700

J Eppa Hite
Carr & Ferrell LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Yurgil, et al. :
Application No. 10/229,187 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. GP-301434 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005 (Certificate of Mailing date: January 18, 2005), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed April 21, 2004. A one (1) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is August 22, 2004. A Notice of Abandonment was mailed on December 20, 2004.

The file is being forwarded to Technology Center 3600 for review of the Request for Continued Examination, submitted January 18, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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James Shay
Wilson Sonsini Goodrich Rosati
650 Page Mill Road
Palo Alto, CA 94304

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Amir Belson :
Application No. 10/229,189 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 26427-704.308 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The Office acknowledges receipt of a Request for Continued Examination (RCE), and Suspension of Action under 37 CFR 1.103(c) filed May 17, 2004, which was prior to the due date of the issue fee. However, since the RCE failed to contain a proper submission, as required by 37 CFR 1.114, the RCE filed May 17, 2004 was considered improper, and did not toll the period for paying the issue fee.

The Notice of Allowance mailed February 20, 2004, set a statutory period for reply of three (3) months. Consequently, the above-identified application became abandoned after midnight May 20, 2004, for failure to timely pay the issue fee and publication fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application or RCE is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the Request for Continued Examination (RCE) to charge any additional fees due, the $665 issue fee will be charged to petitioner's deposit account.

Since the issue fee has been paid subsequent to the filing of an RCE, to prevent the inadvertant issuance of a patent, this application is being withdrawn from issue *sua sponte*. See 65F.R. 14865,14870 (March 20, 2000). No additional fee has been charged.

Petitioner is advised that the issue fee paid on July 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

[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

This application file is being referred to Technology Center Art Unit 3739, for processing of the Request for Continued Examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement (IDS) filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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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PATENT DEPARTMENT INTUITIVE SURGICAL INC
1266 KIFER ROAD BUILDING 101
SUNNYVALE CA 94086

MAILED

JAN 13 2010

OFFICE OF PETITIONS

In re
Amir Belson
Application No. 10/229,189
Filed: April 26, 2002
Patent No. 7,044,907
Issued: May 16, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 13, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490 for the maintenance fee is hereby **accepted**.

The change of status to large entity has been entered.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: DenneMeyer & Co LTD
Regent House Heaton Lane
Stockport Cheshire
England SK4 1BB

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Paper No.

HEEJA YOO-WARREN
GREENLEE WINNER AND SULLIVAN, P.C.
5370 MANHATTAN CIRCLE, SUITE 201
BOULDER, CO 80303

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Antonio Arioli et al :
Application No. 10/229,193 : NOTICE
Filed: August 26, 2002 :
Attorney Docket No. 96-98A

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 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 7

GREGORY SMITH & ASSOCIATES
SUITE 317
3900 NEWPARK MALL ROAD
NEWARK CA 94560

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Brian Keller
Application No. 10/229,195
Filed: August 26, 2002
Attorney Docket No. 205-003C

This is a decision on the petition, filed by facsimile transmission on October 30, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 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 1621 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 8

Date : October 31, 2003

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Brian Keller
Application No. : 10/229,195
Filed : August 26, 2002

The above-identified application has been assigned Patent No. 6,646,002 and an issue date of November 11, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 11, 2003:

"All reference to Patent No. 6,646,002 to Brian Keller of California for COMPOUNDS AND METHODS FOR INHIBITION OF PHOSPHOLIPASE A2 AND CYCLOOXYGENASE-2 appearing in the Official Gazette of November 11, 2003 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, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/12/07 **Paper No.:** _____

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229202 Patent No.: 7096449

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Examiner was overseas for ~3 weeks. Examiner approves the request for certificate of correction.

[signature]
SPE

2823
Art Unit

PTOL-306 (REV. 7/03)

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NOV 13 2007

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of
Eyal Raz et al
Serial No.: 10/229,208
Filed: August 26, 2002
Attorney Docket No.: UCSD-170CON9

: SUSPENSION OF ACTION

This is in reply to the petition under 37 CFR 1.103 to suspend action in this application at applicant's request for a period of six months, filed July 24, 2007.

BACKGROUND

Applicant, at the direction of the Board of Patent Appeals and Interferences (BPAI), has amended this application by canceling all pending claims and adding a single new claim, claim 58. Applicant has also requested suspension of action pending a decision on motions in Interference No 105,526 which involves Raz application SN 09/234,742 of which this application is a continuation. A hearing is scheduled for December 12, 2007, with a decision expected shortly thereafter. These actions were suggested and approved by the BPAI.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' reasons for requesting suspension satisfy the requirements of 37 CFR 1.103.

DECISION

In view of the above the petition for suspension of action is **GRANTED** for a period of six months from the date of filing of the petition, July 24, 2007.

Applicants are requested to notify the Office should a decision be received prior to the expiration of the period of suspension.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:
Raz et al.	:
Serial No.: 10/229,208	: SUSPENSION OF ACTION
Filed: August 26, 2002	:
Attorney Docket No.: UCSD-170CON9	:

This is in reply to the renewed petition under 37 CFR 1.103 to suspend action in this application at applicants' request for a period of six months, filed July 9, 2008.

The petition fee of $200.00 was charged to applicants' Deposit Account 50-0815, as directed.

BACKGROUND

Applicants, at the direction of the Board of Patent Appeals and Interferences (BPAI), amended this application by canceling all pending claims and adding a single new claim, claim 58. Applicants have also requested suspension of action pending a decision on motions in Interference No 1.05,526 which involves Raz application SN 09/234,742 of which this application is a continuation. A hearing is scheduled for December 12, 2007, with a decision expected shortly thereafter. These actions were suggested and approved by the BPAI.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

At this time, a decision has not been rendered. Therefore, it has not yet been determined whether the instant application may become involved in the interference. Applicants have shown good and sufficient reason for suspension.

DECISION

In view of the above the petition for suspension of action is **GRANTED** for a period of six months, as requested, from the date of mailing of this decision.

Should applicants receive an arbitration decision prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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COMMISSIONER FOR PATEN
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WASHINGTON, D.C. 2023
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Technology Center 2100

Paper No. 5

Jeffrey M. Fries
1216 South Second Avenue
Siler City, North Carolina 23744-4019

In re Application of: Jeffrey Fries	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (VI): ENERGY**
Application No. 10/229,242	)	
Filed August 27, 2002	)	
For: FREQUENCY TIME-BASED DATA COMPRESSION METHOD	)	

This is a decision on the petition, filed August 27, 2002, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is 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. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(VI).)

The petition does not meet the requirements for special status in that there is no persuasive showing that the invention *materially contributes* to the discovery, development, conservation or more efficient utilization of energy resources as required in (A) or (B). The invention disclosed and claimed is removed from the process of materially contributing to the saving or conserving of energy as it is directed toward a method of data compression as opposed to any clearly defined developments in energy saving or conservation technology.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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FEB - 1 2005

In re Application of	:	
Richard A. Lathrop	:	NOTICE OF WITHDRAWAL
Serial No. 10/229,252	:	FROM ISSUE
Filed: August 28, 2002	:	UNDER 37 CFR 1.313(b)
For: ZIPPER ASSIST DEVICE	:	

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Peter Vo, SPE, Art Unit 3726 at (571) 272-4690. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

E.R. Kazenske, Director
Technology Center 3700

Seyfarth Shaw
55 East Monroe Street, Suite 4200
Chicago, IL 60603-5803

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 5

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON MA 02021-2310

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OFFICE OF PETITIONS

In re Application of Walter Gordon Woodington, Michael Joseph Delcheccolo, Joseph S. Pleva, Mark E. Russell, and Barteld H. Van Rees Application No. 10/229,256 Filed: August 27, 2002 Attorney Docket No. RTN-143AUS Title: RADAR DETECTION METHOD AND APPARATUS	: : : : : : : : : : :	DECISION GRANTING PETITION

This is a decision on the petition filed November 13, 2002, requesting that application number 10/229,256 be accorded a filing date of August 27, 2002.

On September 26, 2002, the Office of Initial Patent Examination mailed a Filing Receipt, stating that the application had been accorded a filing date of August 26, 2002.

In response, on November 13, 2002, applicants filed the present petition. Petitioners have included a copy of the filing receipt, a copy of the Express Mail Label having a number of EU552720514US, and a copy of the Utility Patent Application Transmittal which contains this Express Mail Label number. Applicants request that application be accorded a filing date of August 27, 2001.

Petitioner has indicated that although the Utility Patent Application Transmittal does not contain a certificate of mailing, the signature is dated August 27, 2002, one day later than the filing date currently accorded. The Express Mail Label has a handwritten date of August 26, 2002, but is date-stamped August 27, 2002.

A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) shows that the package was accepted on August 27, 2002. A copy of the search result is enclosed.

Upon review of the record, the application is date stamped August 26, 2002. However, the evidence is convincing that the application papers were deposited on August 27, 2002, and the incorrect date was subsequently written on the Express Mail Label. Therefore, the application was entitled to a filing date of August 27, 2002.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 27, 2002, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl. Copy of USPS Express Mail Printout (Paper No. 4)

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OFFICE OF PETITIONS

GARLICK HARRISON & MARKINSON LLP
P.O. BOX 160727
AUSTIN TX 78716-0727

In re Application of :
Guangming Yin et al :
Application No. 10/229,257 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 019717-000316US :

This is a decision on the petition, filed July 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2816 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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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

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NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Guangming Yin et al :
Application No. 10/229,257 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 019717-000316US :

This is a decision on the petition under 37 CFR 1.313, filed November 24, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2400

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OFFICE OF PETITIONS

In re Application of :
Gedaliah Gurfein et al :
Application No. 10/229,263 : DECISION ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 021619.0112 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 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, November 23, 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 February 24, 2006. A Notice of Abandonment was mailed on June 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an acceptable reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely file the reply to continue prosecution 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.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11//542,718.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE T. Meeks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/2/06

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229,264 Patent No.: 6946163

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE 1762 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK, FABER, GERB
& SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED

JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Kedar N. PRASAD, et al :
Application No. 10/229,274 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. P/4205-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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 June 14, 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)(II)(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 December 15, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper 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 1615 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.

April Wise
Petitions Examiner
Office of Petitions

cc: DAN M. DELA ROSA, ESQ.
300 E 77TH STREET, SUITE 24C
NEW YORK, NY 10075

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAN M. DELA ROSA, ESQ.
300 EAST 77TH STREET, SUITE 24C
NEW YORK, NY 10075

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of
Kedar N. PRASAD, et al
Application No. 10/229,274
Filed: August 28, 2002
Attorney Docket No. P/4205-2

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 19, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h).

The request cannot be approved because no statement under § 3.73(b) was filed.

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 power of attorney filed November 19, 2007 does not include one of the above two options.

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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

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Paper No. 9

Felix J. D'Ambrosio
Jones, Tuller & Cooper, P.C.
P.O. Box 2266 Eads Station
Arlington, VA 22202

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NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Ennio Bitto, et. al. :
Application No. 10/229,291 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. BITT3002/FJD :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 1, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight December 1, 2002.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, $770 for the filing fee, and an executed Oath/Declaration along with $65 for the late filing of the Oath/Declaration.

The petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination Unit for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Bacon & Thomas, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314

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Mailed: OCT 1 2004

spg
Paper Number

In re application of
Peter A. Graef et al.
Serial No. 10/229,301
Filed: August 27, 2002
For: UNITARY DISTRIBUTION LAYER

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT: PROPER REPLY TO OUTSTANDING PATENT OFFICE REQUIREMENT WAS MAILED AND RETURN POSTCARD RECEIVED filed March 19, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 18, 2003, for failure to timely file a proper reply to the Office letter of April 23, 2003, be withdrawn since the applicants did timely file a response thereto on September 11, 2003. (A copy of the response filed September 11, 2003 is attached to the instant request.)

DECISION

The instant request has been accepted as a timely petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was filed with the USPTO on September 11, 2003 as evidenced by the date stamped return receipt postcard indicating receipt of the response at the USPTO on September 11, 2003. A review of the USPTO financial records indicates that the fee of $494.00 was never credited to the instant application. A further review of the each of the originally filed papers indicates that applicant's response of September 11, 2003 contained incorrect Serial No. 10/299,301 thereon but the response contained thereon the correct inventors, title, attorney docket number, art unit, examiner and filing date. Note: the fee of $494.00 was credited to Serial No. 10/299,301 as listed on the originally filed papers.

Therefore upon consideration of the entirety of the evidence presented it is considered that applicant's response filed September 11, 2003 was intended to be filed in serial number 10/229,301 rather than the incorrect serial number of 10/299,301 listed on the response, thus, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on April 23, 2003 is hereby vacated, and the application is returned to pending status. The application shall be forwarded to the technical support staff for crediting the fee of $494.00 thereto and to the examiner for processing and consideration of the papers originally filed September 11, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P.O. BOX 9777
FEDERAL WAY WA 98063

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TOWNSEND AND TOWNSEND AND CREW LLP/015114
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 08 2004

OFFICE OF PETITIONS

In re Application of
Bonnie I. Wang et al
Application No. 10/229,342
Filed: August 26, 2002
Attorney Docket No. 015114-054610US

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2816 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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WASHINGTON, D.C. 20231
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Paper No. 3

William Schmonsees
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

APR 30 2003

In re Application of:
VAN DUZER *et al.*
Serial No.: 10/229,354
Filed: August 26, 2002
Attorney Docket No.: 18941H-002500US

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 07, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by William Schmonsees, on behalf of himself and all the attorneys associated with Customer No. 20350. There is no outstanding Office action, which requires a response at this time.

The request is APPROVED.

There are no attorneys of record at this time.

All future communications from the Office will be directed to, Henry K. Woodward, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Henry K. Woodward
Beyer Weaver & Thomas, LLP, Intellectual Property Law
590 West El Camino Real
Mountain View, CA 94040

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INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD, BLDG. 082-1
LEXINGTON, KY 40550-0999

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Douglas Campbell Hamilton et al	:	
Application No. 10/229,369	:	ON PETITION
Filed: August 26, 2002	:	
Attorney Docket No. 2002-0016.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 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 October 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 29, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS TN 38116

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Christopher Patrick Carson et al.	:	
Application No. 10/229,372	:	DECISION GRANTING PETITION
Filed: August 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50642/277554	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 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 March 28, 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 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Bell, et al.
Application No. 10/229,373
Filed: August 27, 2002
Attorney Docket No. 884.746US1
FOR: NETWORK OF DISPARATE PROCESSOR-BASED DEVICES TO EXCHANGE AND DISPLAY MEDIA FILES

: DECISION DISMISSING
: PETITION AS MOOT

This is a decision on the petition under 37 CFR 1.10(c), filed October 8, 2002 (certificate of mailing date October 3, 2002), requesting that the above-identified application be accorded a filing date of August 27, 2002.

The petition is **dismissed as moot**.

The Office received petitioners' original application papers on August 28, 2002 and processed them with a filing date of August 27, 2002, the date upon which petitioners deposited the application in Express Mail service. Unfortunately, an incorrect application number was listed on the postcard. The correct application number for the invention called NETWORK OF DISPARATE PROCESSOR-BASED DEVICES TO EXCHANGE AND DISPLAY MEDIA FILES is application No. 10/229,373 and its filing date is August 27, 2002. Office records verify this information. Another copy of the filing receipt is enclosed for petitioners' records.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiries directly related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosure: replacement filing receipt

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JJG/jr 01-0

Paper No. 8

LOEFFLER JONAS
& TUGGEY, LLP
755 EAST MULBERRY STREET
SUITE 200
SAN ANTONIO TX 78212

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Palafox :
Application No. 10/229,398 : ON PETITION
Filed: 17 October, 2001 :
Attorney Docket No. 80205.00005 :

This is a decision on the petition filed on 2 December, 2002, and supplemented on 23 January, 2003, styled as a "Petition for Missing Page of Specification," and considered 37 C.F.R. §§1.10 and 1.53 and thus treated as a petition requesting that the above-identified application be amended to include page 11 of the specification (description and claims) alleged to have been submitted previously.

For the reasons set forth below, the petition under:

- 37 C.F.R. §1.53 is **GRANTED**; and

- 37 C.F.R. §1.10 is **DISMISSED**.

This application was deposited on 27 August, 2002. However, on 2 October, 2002, the Office mailed a "Notice to File Missing Parts of a Nonprovisional Application (Filing Date Granted)" in this nonprovisional application, stating that, although the application had been accorded a filing date, page 11 of the specification (description and claims) appeared to be missing from the application.

In response, a petition of unspecified basis was filed on 2 December, 2002, and supplemented on 23 January 2003.

Because Petitioner attempts use a receipt card to make a showing of receipt by the Office, the

petition is considered under 37 C.F.R. §1.10.[1] Because Petitioner raises other arguments in support of the petition, it is considered also under 37 C.F R. §1.53.

Petitioner contends that this application is a continuation of Application No. 09/547,704 (Office data indicates the filing date as 11 April, 2000), which is incorporated herein by reference, and, therefore, the omitted claims do not constitute new matter.

Analysis

A search of the official file reveals that on 27 August, 2002, a "Utility Patent Application Transmittal" letter was filed which itemized the filing of a declaration and preliminary amendment. The transmittal letter states that the application is a continuation of "prior Application No. 09/547,704" (filed as indicated above on 11 April, 2000), and that "the entire disclosure of the prior application . . . is hereby incorporated . . . by reference."

Because Petitioner stated on the cover sheet that the entire disclosure of the prior application was incorporated by reference, and Petitioner has included that disclosure, and a statement in the petition attesting thereto, the present petition will be construed as a petition to accept the specification and claims deposited on 2 December, 2002, and 23 January, 2003, as a complete copy of the entire disclosure filed with application No. 09/547,704 on 11 April, 2000.

Petitioner must notify the Office if this is not a correct interpretation.

Because the 2 December, 2002, petition(s) (and the supplement of 23 January, 2003) were not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.

Therefore, the petition under 37 C.F.R. §1 53 is **granted**; and for the reasons set forth in Fn. 1, the petition under 37 C.F.R. §1.10 is **dismissed**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 27 August, 2002, using pages 1 - 10 and 12 - 16 filed on 27 August, 2002, and page 11 submitted on 2 December, 2002 (and resubmitted as part of a copy of the entire parent application on 23 January, 2003).

The application will then be forwarded for examination in due course.

---

[1] Petitioner's receipt card is insufficiently detailed as to the number of pages of specification (description and claims) submitted. Petitioner's attention is directed to the commentary at MPEP § 503, which provides in pertinent part as follows:

> [T]he postcard receipt will not serve as *prima facie* evidence of receipt of papers which are not adequately itemized...Instead, each separate component, e.g., the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard receipt. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK NY 10176

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Michael Hurrlein et al :
Application No. 10/229,410 :
Filed: August 28, 2002 :
Attorney Docket No. 4452-506 :

ON PETITION

This is a decision on the petition, filed March 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3683 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ST. LOUIS, MO 63102

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SEP 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,924,149	:	
Issued: August 2, 2005	:	
Application No. 10/229,424	:	PATENT TERM ADJUSTMENT
Filed: August 28, 2002	:	
Dkt. No.: 98-14CIP3DIV4 (SMX 3099.2	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705," filed August 19, 2005. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,924,149 on August 2, 2005. The instant request for reconsideration was timely filed August 19, 2005 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 348 days. Applicant argues that the adjustment was improperly reduced 120 days in connection with an interview summary submitted August 2, 2004.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1), an adjustment of 247 days can be attributed to the Office. A further adjustment of 221 days in accordance with 37 CFR 1.702(a)(4) can be attributed to the Office.

The overall adjustment of 468 days was improperly reduced 120 days under 37 CFR 1.704(c)(10) in connection with an "INTERVIEW SUMMARY" submitted August 2, 2004. The examiner's interview summary, mailed July 1, 2004, permitted applicants one month from the mail date of the interview summary to submit a statement of the summary of the interview. Accordingly, the interview summary submitted July 1, 2004 is not deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704.

Thus, at the time of issuance, the patent was entitled to a PTA 468 days, as argued by applicants. The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 468 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 468 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 (571) 272-3205.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 30 2007

OFFICE OF PETITIONS

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

In re Application of
CHEIKH, et al.
Application No. 10/229,436
Filed: August 28, 2002
Attorney Docket No. 38-21(51380)B

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 14, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to an appropriate deciding official for decision until after the issuance of this application into a patent. The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Bradley S. Kurtz 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. Bradley S. Kurtz desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to 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.

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: **KURTZ,BRADLEY**
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRICE STATTION- SEARS TOWER
CHICAGO, IL 60606--108

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-14-09

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229436 Patent No.: 7208652

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE **Art Unit** 1638

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER/MICRON
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of :
Scott E. Moore :
Application No. 10/229,440 : DECISION ON PETITION
Filed: August 28, 2002 : TO WITHDRAW
Attorney Docket No. 303.547US6 : 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 5, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner/Micron has been revoked by the assignee of the patent application on January 9, 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 undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: VICTOR SANTOS
GREENBURG TAURIG, LLP
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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DAVID J. PAUL
MICRON TECHNOLOGY, INC.
8000 S. FEDERAL WAY
BOISE, ID 83716

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MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Christopher W. Hill :
Application No. 10/229,445 :
Filed: August 27, 2002 :
Attorney Docket No. 2001-0827.00 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned by operation of law for failure to timely pay the issue (and publication) fee on or before April 5, 2004, as required by the Notice of Allowance and Fee(s) Due mailed January 5, 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 the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (703) 305-8680. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

This matter is being referred to Publishing Division for processing into a patent.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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OFFICE OF PETITIONS

Applicant: Vaartstra
Appl. No.: 10/229,473
Filing Date: August 28, 2002
Title: SYSTEMS AND METHODS FOR FORMING METAL OXIDES USING ALCOHOLS
Attorney Docket No.: 150.01260101
Pub. No.: US 2004/0043632 A1
Pub. Date: March 4, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on April 16, 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

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ALAN H. THOMPSON
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808, L-703
LIVERMORE, CA 94551

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Peter J. Nunes, et al. :
Application No. 10/229,523 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. IL-10693 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 18, 2005. A Notice of Abandonment was mailed on August 10, 2006.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

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 $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1743 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

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HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Liang, et al.
Application No. 10/229,530
Filed: August 27, 2002
Attorney Docket No. 26822-0034

DECISION ON PETITION

This is a decision on the "Petition in Response to the Notice of Incomplete Nonprovisional Application," filed October 3, 2002, requesting that the above-identified application be accorded a filing date of August 27, 2002.

Application papers in the above-identified application were filed on August 27, 2002. However, on September 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In reply, applicants timely filed the instant petition. Applicants maintain that the application was filed with drawings on August 27, 2002. In support thereof, applicants submit a copy of their return postcard receipt, itemizing "Drawings (6 Sheets)" among the enclosures, bearing a USPTO date-stamp of August 27, 2002 with application No. assignment of 10/229530, and lacking any notation of non-receipt of any item listed. Included with the petition is a copy of the six (6) sheets of drawings as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on August 27, 2002 included six (6) sheets of formal drawings, and thus, is entitled to a filing date of August 27, 2002.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 08-1641, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a **filing date of August 27, 2002**, using the application papers received in the Office on that

[1] See 35 U.S.C. 111(a)(4).

date and the six (6) sheets of drawings resubmitted on petition filed October 3, 2002; and

- indication in Office records that six (6) sheets of drawings were present in the application on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROZSA & CHEN
15910 VENTURA BOULEVARD
SUITE 1601
ENCINO CA 91436

Paper 5.

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OFFICE OF PETITIONS

In re Application of :
Verhoeven et al. :
Application No. 10/229,545 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 37170.004 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on October 24, 2002, which set a two-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on December 25, 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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

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) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: **7029495 B2 – 10/229548**

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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 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:

_____

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(JACKIE) TAN-UYEN HO
SUPERVISORY PATENT EXAMINER
SPE

3731
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 16 2004

112004

CONLEY ROSE, P.C.
P.O. BOX 684908
AUSTIN TX 78768

In re Application of
Dan A. Ivanciw et al.
Application No.: 10/229,586
Filed: August 28, 2002
For: MICRO-ELECTROMECHANICAL SWITCH PERFORMANCE ENHANCEMENT

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon 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 Fee(s) 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 and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed Nancy Le, Supervisory Patent Examiner, at (571) 272-2233.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

In re Application of :
Dan A. Ivanciw et al :
Application No. 10/229,586 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 5683-01000TER0013 :

This is a decision on the petition, filed August 28, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 5, 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 2858 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

MCKEE VOORHEES & SEASE
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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OFFICE OF PETITIONS

In re Application of :
Daniel R. Bernacki et al :
Application No. 10/229,589 : NOTICE
Filed: August 27, 2002 :
Attorney Docket No. P05342US1 :

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 3635.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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PHILIP W. WOO
C/O SIDLEY AUSTIN BROWN & WOOD LLP
555 CALIFORNIA STREET
SUITE 2000
SAN FRANCISCO, CA 94104-1715

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OFFICE OF PETITIONS

In re Application of :
Cho, et al. :
Application No. 10/229,612 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. AB-1263 US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before November 26, 2004. Accordingly, this application became abandoned on November 27, 2004.

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)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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LAW OFFICES OF ARTHUR E. JACKSON
P.O. BOX 88
HOPEWELL NJ 08525

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OFFICE OF PETITIONS

In re Application of
David P. Hesson et al.
Application No. 10/229,619
Filed: August 28, 2002
Attorney Docket No. 358381-107

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the restriction requirement mailed February 20, 2004. A shortened statutory period of one month was set for replying to the restriction requirement. No extensions of time having been filed, the application became abandoned March 21, 2004. Accordingly, a Notice of Abandonment was mailed October 5, 2004.

Petitioner files the instant petition and request for continued examination under 37 CFR 1.137(b). [1]

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The request for continued examination (RCE) of this application under 37 CFR 1.114 is improper since prosecution in the application had not been closed. However, the election filed June 16, 2005 will serve as the required reply.

This application is being forwarded to Technology Center 1653 for appropriate action on the election filed June 16, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Akerman Senterfitt
PO Box 3188
West Palm Beach, FL 33402-3188

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FEB 0 2 2004

OFFICE OF PETITIONS

In re Application of :
DIMARE :
Application No. 10/229,629 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 7151-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 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 October 2, 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 December 3, 2003.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Scott E. Moore :
Application No. 10/229,654 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 303.547US2 :

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HOWREY SIMON ARNOLD & WHITE
ATTORNEYS AT LAW
750 BERING DRIVE
HOUSTON, TX 77057-2198

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Horst E. Gary :
Application No. 10/229,675 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 10800.0039.NPUS00 :

This is a decision on the petition, filed February 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 December 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 306-5685.

This matter is being referred to Technology Center AU 2834 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060222

DATE : February 22, 2006

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,919,058

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Correction that claim 17 of US 6,919,058 is cancelled is approved, as per oversight by USPTO, see 1.312 amendment of 12-13-2004.

SPE: Steven Griffin **Art Unit** 1723

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

3/15/06

In re Patent No. 6,919,058 (ANDERSSON ET AL.)
Issue Date: July 19, 2005
Appl No.: 10/229,676
Filed: August 28, 2002
For: RETAINING MICROFLUIDIC MICROCAVITY AND OTHER MICROFLUIDIC STRUCTURES

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 30, 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.

Steven P. Griffin
Supervisory Patent Examiner
Art Unit 1731/1723
Technology Center 1700

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

#9

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Jim Moore :
Application No. 10/229,746 : DECISION GRANTING PETITION
Filed: August 28, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 0205.1J1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of August 28, 2003, 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 forwarded to Technology Center AU 3634.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 01-03

Paper No. 7

HANA VERNY
PETERS, VERNY, JONES & SCHMITT LLP
SUITE 6
385 SHERMAN AVENUE
PALO ALTO CA 94306

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JAN 16 2003

OFFICE OF PETITIONS

In re Application of	:	
Zhao et al.	:	
Application No. 10/229,747	:	ON PETITION
Filed: 27 August, 2002	:	
Attorney's Docket No. 3817.06-2	:	

Receipt is acknowledged of the petition filed on 26 December, 2002 (certificate of mailing 18 December, 2002), captioned "Petition in Response to Notice of Omitted Item(s) in a Non-Provisional Application" concerning the U.S. Patent and Trademark Office's handling of an application assigned application Serial No. 10/229,747.

The petition is dismissed.

The application was filed on 27 August, 2002. However, on 22 November, 2002, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date of 27 August, 2002, and advising applicants that Figures 12A and 12B described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners explain that no Figures were missing on 27 August, 2002. The specification, however, incorrectly referred to Figures 12A and 12B rather than Figure 12.

It is obvious from the petition that no drawings were actually missing on 27 August, 2002. Rather, the specification incorrectly referred to Figures 12A and 12B as a result of the applicants' filing error. However, the "Notice" mailed on 22 November, 2002, was correct in stating that Figures 12A and 12B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

The application will be processed and examined using the application papers filed on 27 August, 2002.

Receipt is acknowledged of the preliminary amendment filed on 26 December, 2002.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 27 August, 2002.

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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COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY, SUITE 303
MUKILTEO, WA 98275

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FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
Killian Dill :
Application No. 10/229,755 : DECISION ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 0701 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 19, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 20, 2009.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555 extension of time submitted with the petition on November 16, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This application is being referred to Technology Center AU 1641 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petition 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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JOSEPH S. TRIPOLI
THOMSOM MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P. O. BOX 3512
PRINCETON, NJ 08543-5312

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of :
KUMAR RAMASWAMY ET AL :
Application No. 10/229,760 : DECISION ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. PU010296 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 5, 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 January 6, 2006. A Notice of Abandonment was mailed on May 17, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C). The instant petition lacks item (1).

As noted above, this application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 5, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE), fee therefor, and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (*note* attached courtesy copy of the Examiner's Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE (in compliance with 37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy copy of Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/229,760	RAMASWAMY ET AL.	
	Examiner	Art Unit	
	Pablo N. Tran	2685	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 December 2005 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 Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-18*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The added limitations "wherein said host further comprises a coptent redirection component adapted to intercept a flle transfer request from the mobile communication device", "a content redirection component for interceptiog a file transfer request from the mobile communication device, said redirectîon component holding the file transfer until said connection is established", and "requesting a file transfer in the form of an upload to host fromthe geographic drive or a download from the host to the geographic drive of mobile communication device; intercepting the file transfer request by a content redirection componet adapted to determine the presence of a connection point", raise new issues that would have require further consideration and/or search. .

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TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO VIEJO CA 94111-3834

In re Application of
YU, SIU-LEONG, ET AL

Application No. 10/229768
Filed: August 27, 2002
For: BIT RATE CONTROL FOR MOTION COMPENSATED VIDEO COMPRESSION SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on April 04, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20350 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
(571) 272-7288

CC : FARSHAD FARJAMI ESQ
26522 LA ALAMEDA AVENUE
STE 360
MISSION VIEJO CA 92691

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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APR 20 2005

OFFICE OF PETITIONS

Applicant: Vaartstra
Appl. No.: 10/229,779
Filing Date: August 28, 2002
Title: SYSTEMS AND METHODS FOR FORMING ZIRCONIUM AND/OR HAFNIUM-CONTAINING LAYERS
Attorney Docket No.: 150.01290101
Pub. No.: US 2004/0040501 A1
Pub. Date: March 4, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on April 16, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/11/06

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 7112485

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 _____ Art Unit 2812

Best Available Copy

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ALEXANDRIA, VA 22313-1450
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Mark K. Johnson
MIRUS CORPORATION
505 South Rosa Rd
Madison, WI 53719

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of:
WOODDELL, Christine, I., et al.
Application No.: 10/229,786
Filed: August 27, 2002
Atty's Docket No.: Mirus.029.02

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002, which set a period for reply of two (2) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on November 20, 2002.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that applicants have submitted (1) the reply in the form of a response to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002, that is, a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002 is accepted as having been unintentionally delayed.

The application file is being referred to the Office Of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office Of Petitions

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	7930
RECIPIENT ADDRESS	6084410741
DESTINATION ID	
ST. TIME	07/13 15:11
TIME USE	01'21
PGS.	2
RESULT	OK

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

GALLAGHER & KENNEDY P.A.
2575 EAST CAMELBACK ROAD
PHOENIX, AZ 85016-9225

COPY MAILED

NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Patrick K. Murphy :
Application No. 10/229,788 : NOTICE
Filed: August 27, 2002 :
Attorney Docket No. 14609-0008 :

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 2835.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2005

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction on Patent No.: 6,945,450

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Note the changes to the line numbers insofar as the word "said" is in column 7, line 50 and the symbol ":" is located in column 8, line 42.

NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

SPE

3727
Art Unit

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. 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. : 6,945,450

DATED : September 20, 2005

INVENTOR(S) : RUSNOCK

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At Column 7, line ~~48~~ 50, please add --each-- before "said" therein.

At Column 8, line ~~41~~ 42, after panel, delete ":" and insert --;-- therein.

9/27/05

MAILING ADDRESS OF SENDER:

Brent P. Johnson
SHERIDAN ROSS P.C.
1560 BROADWAY
SUITE 1200
DENVER, COLORADO 80202-5141

PATENT NO. 6,945,450

No. of additional copies

1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OCT 19 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/229,815	08/27/2002	Takao Kobayashi	448563/0213 LR/MWW	2046

7590 03/28/2006

Lawrence Rosenthal
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

EXAMINER
VO, ANH T N

ART UNIT	PAPER NUMBER
2861	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Lawrence Rosenthal
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York NY 10038

Paper No. 20060320

Appl No.: 10/229,815
Applicant: Kobayashi et al
Filed: 8/27/02

DECISION ON PETITION UNDER *37 CFR 1.324* **on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.324" filed 10/20/05 to remove the following inventors: Kiyofumi Usui, Shoichi Hiraide, Kazu Koshino, Hisashi Miyazawa, Seiji Mochizuki, Yoshinori Miyazawa, Takashi Suzuki, and Eiko Yanagida.

The petition is GRANTED.

The inventive entity is therefore: Takao KOBAYASHI and Satoshi SHINADA.

The application is being forwarded to the publications for further action.

Stephen D. Meier
Supervisory Patent Examiner,
Art Unit 2853

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Blanchard : DECISION ON PETITION
Application No. 10/229,821 :
Filed: August 27, 2002 :
Atty. Dkt. No.: 33365-0717 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 30, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned February 7, 2007 for failure to timely submit a proper reply to the non-final Office action mailed November 6, 2006. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioner argues that a proper response to the non-final Office action was timely submitted January 29, 2007.

Review of Office records reveals that the response was received at the USPTO on January 29, 2007, while intended for instant application, did not include the correct application serial number. The response improperly cited U.S. App. No. **11**/229,821. As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred

in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROBERT A. MANWARE
FLETCHER, YODER
P.O. BOX 692289
HOUSTON TX 77269-2289

COPY MAILED

AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,798,013 :
Issue Date: September 28, 2004 :
Application No. 10/229,824 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. MICS:0092/FLE 01-0757 :

This is a decision on the petition filed December 6, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is GRANTED.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested certificate of correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Questions regarding the certificate of correction should be directed to Certificate of Corrections Branch at (703) 305-8347 or (703) 305-8228.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

COPY MAILED

FEB 07 2003

OFFICE OF PETITIONS

In re Application of
Edward Rubin et al
Application No. 10/229,834
Filed: August 27, 2002
Attorney Docket No. IB-1709

ON PETITION

This is a decision on the paper, filed January 21, 2003 and by facsimile transmission on January 10, 2003, which is being treated 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. 60/315,210 filed August 27, 2001.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the provisional application. In addition, the petition must be accompanied by:

> **(1)** the surcharge set forth in 37 CFR 1.17(t);
> **(2)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(I) and the date the claim was filed was unintentional; and
> **(3)** the reference to the prior filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on August 27, 2002 and was filed within twelve months of provisional Application No. 60/315,210, for which the benefit for priority is now being sought. A reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification

following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(6).

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(iii) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior application**(s)**. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(6) 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 transmission to the number indicated below and to the attention of Karen Creasy.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX:
(703) 308-6916
Attn: Office of Petitions

By hand:
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
VERKELEY CA 94720

COPY MAILED

FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Edward Rubin et al :
Application No. 10/229,834 : DECISION ON PETITION
Filed: August 27, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. IB-1709 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed by facsimile transmission on February 19, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of a prior-filed provisional application.

The petition is **Granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on August 27, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/315,210, which was filed on August 27, 2001, for which priority is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/315,210 is granted.

The granting of the petition to accept the delayed benefit claim to the prior 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 application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 1632 for processing the amendment submitted February 19, 2003 and 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.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-4-07

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6781219

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:

We filed

SUE A. PURVIS
SUPERVISORY PATENT EXAMINER

SUE PURVIS
SPE

2826
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/229,854	08/28/2002	Gabor Fodor	P15092-US2	1553

27045 7590 08/03/2010

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

EXAMINER	
PARK, JUNG H	

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
08/03/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kara.coffman@ericsson.com
jennifer.hardin@ericsson.com
melissa.rhea@ericsson.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100723

DATE : July 30, 2010

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction on Patent No.: 7317684

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The requested corrections shown in the COCIN document is approved because no new matter has been introduced and the scope of meaning of the claims has not been changed.

SPE: /Jayanti Patel/ **Art Unit** 2465

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/12/08

TO SPE OF : ART UNIT 2619 Jung Park

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229854 Patent No.: 7317684

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested corrections shown in the COCIN document is approved because no new matter has been introduced and the scope of meaning of the claims has not been changed.

/ Jay Patel / 2465

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

Paper No. None

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Horst Vogel et al. :
Application No. 10/229,863 : DECISION ON PETITION
Filing Date: August 27, 2002 : UNDER 37 C.F.R. § 1.183
Attorney Docket Number: CYN :
912A :
Title: MULTIAPERTURE SAMPLE :
POSITIONING AND ANALYSIS SYSTEM :

Background

This is a decision on the petition filed on July 19, 2006 pursuant to 37 C.F.R. § 1.183, requesting the waiver of the requirement for a new declaration under 37 C.F.R. §1.67(a).

In short, the declaration which was submitted on January 13, 2003 contains a priority claim which lists an incorrect filing date for a prior-filed application to which priority is claimed. In lieu of submitting a corrected declaration, Petitioner wishes to submit an Application Data Sheet (ADS).

The present application was filed on August 27, 2002, without an oath or declaration. A "notice to file missing parts of nonprovisional application - filing date granted " was mailed on October 15, 2002, indicating than an executed oath or declaration, along with surcharge associated with the late submission of the same would be required. On January 13, 2003, Applicants provided an executed declaration and the required surcharge.

On February 10, 2006, the Office mailed a non-final rejection, indicating:

> The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.
>
> The oath or declaration is defective because: Applicant refers to the incorrect filing date for 09/581,837. The filing date listed should be 10/13/2000 [the filing date was erroneously listed as June 16, 2000].

Non-final rejection, paragraph 1.

With the present petition, Petitioner has submitted the fee associated with the filing of a petition under 37 C.F.R. §1.183. Petitioner has asserted that the obtainment of the signatures of the joint inventors on a corrected declaration would be so expensive and would require so much effort that the present situation constitutes a extraordinary situation, and that justice requires the waiver of Rule §1.67(a).

A discussion follows.

Applicable Law, Rule, and Portion of the MPEP

35 U.S.C. §120 sets forth, *in toto*:

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 filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed 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 section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

37 C.F.R. §1.67(a) sets foth, *in toto*:

(a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of § 1.63 or § 1.162

to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.
(1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.
(2) Deficiencies or inaccuracies relating to fewer than all of the inventor(s) or applicant(s) (§§ 1.42, 1.43 or § 1.47) may be corrected with a supplemental oath or declaration identifying the entire inventive entity but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates.
(3) Deficiencies or inaccuracies due to the failure to meet the requirements of § 1.63(c) (e.g., to correct the omission of a mailing address of an inventor) in an oath or declaration may be corrected with an application data sheet in accordance with § 1.76.
(4) Submission of a supplemental oath or declaration or an application data sheet (§ 1.76), as opposed to who must sign the supplemental oath or declaration or an application data sheet, is governed by § 1.33(a)(2) and paragraph (b) of this section.

37 C.F.R. §1.76(c)(1) sets forth, *in toto*:

(c) Supplemental application data sheets. Supplemental application data sheets:
(1) May be subsequently supplied prior to payment of the issue fee either to correct or update information in a previously submitted application data sheet, or an oath or declaration under § 1.63 or § 1.67, except that inventorship changes are governed by § 1.48, correspondence changes are governed by § 1.33(a), and citizenship changes are governed by § 1.63 or § 1.67; and

37 C.F.R. §1.183 sets forth, *in toto*:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

[47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

MPEP §602.01 sets forth, *in pertinent part*:

The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required. However, in some cases, a deficiency in the oath or declaration can be corrected by a supplemental paper such as an application data sheet (see 37 CFR 1.76 and MPEP § 601.05) and a new oath or declaration is not necessary. See 37 CFR 1.63(c)(1) and (c)(2).

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 established that either condition exists in this case. The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules.

The existence of an extraordinary situation

The PTO has a well established and well publicized practice by which practitioners may secure priority to a prior-filed application. See 35 U.S.C. §120 and 37 C.F.R. §1.78. Petitioner listed the incorrect filing date in his benefit claim, and now wishes to assert that "significant effort and expense would be required to locate and obtain signatures from the original inventors[1]," as they are European residents and their present addresses are unknown.

In this age of digital communication, e-mail, Internet search engines, and global connectivity, it is not clear what is so extraordinary about a search to locate individuals who live in Europe. As such, there does not appear to be anything extraordinary about Petitioner's situation.

The question of whether justice requires the waiver of the rule

Pursuant to Rule §1.76(c)(1), prior to the payment of the issue fee, an ADS may be submitted in order to correct information provided in a previously submitted declaration under Rule §§ 1.63 or § 1.67. It follows that Petitioner is able to correct this information via the submission of an ADS.

As such, an avenue exists by which Petitioner may escape this quandary, and as such, justice does not require that Rule §1.67(a) be waived. Furthermore, it is noted that with the present petition, Petitioner has included an ADS which lists the correct filing date for application number 09/581,837. The ADS has been entered and made of record.

---

1 Petition, page 2.

Conclusion

The petition under 37 C.F.R. §1.183 is **DISMISSED.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Victor E. Johnson
Dorsey and Whitney, LLP
555 California Street Suite 1000
San Francisco, CA 94104

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

Mailed: 4/19/05

dss
Paper No.

In re application of
Hideyuki Suzuki et al.
Serial No.10/229,871
Filed: August 28, 2002
For: METAL MOLDING METHOD AND APPARATUS

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed May 18, 2004 of the Notice of Abandonment mailed May 07, 2004 for failure to pay the required issue fee in response to the Notice of Allowance, mailed December 23, 2003. Petitioner contends that the said Allowance was never received.

DECISION

Since petitioner asserts that the Notice of Allowance was never received, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the file and petitioner's evidence provided with the instant petition indicates that the request has merit.

Submitted as evidence is 1) a statement that no such Office Action was ever received, 2) a statement that a review of the file record was made, but the Action not found, and 3) submission of a copy of the docket records, showing that the Office Action was not received.

Therefore, the Notice of Abandonment dated May 07, 2004 is hereby withdrawn.

The Petition is **GRANTED.**

The case will be delivered to the LIE and returned to pending status. After such is completed, the Notice of Allowance dated December 23, 2003 will be remailed and time period for Issue Fee payment will be restarted.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Harness, Dickey, & pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 11/5/04

rvk
Paper Number: _____

In re application of :
Robert C. Bening et al :

Serial No. 10/229,876 : DECISION ON PETITION
Filed: August 28, 2002 :
For: A PROCESS FOR REMOVING RESIDUAL SILICON SPECIES FROM HYDROCARBON SOLVENTS :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR 1.181, filed August 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 27, 2004 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed March 16, 2004, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed March 16, 2004 were not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed March 16, 2004 were not received. Also provided is a copy

of the attorney's docket record of Ser. No.10/229,876 (Atty. Dkt. No. TH0943), where the Notice of Allowability and Notice of Allowance and Issue Fee Due would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KRATON POLYMERS U.S.LLC
WESTHOLLOW TECHNOLOGY CENTER
3333 HIGHWAY 6 SOUTH
HOUSTON, TX 77082

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
Harry Rosenberg et al :
Application No. 10/229,888 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. HO58-071 :

This is a decision on the petition, filed October 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 June 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 7

O'MELVENY & MEYERS
114 PACIFICA, SUITE 100
IRVINE, CA 92618

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OFFICE OF PETITIONS

In re Application of
Dubrul et al.
Application No. 10/229,900
Filed: August 28, 2002
Attorney Docket No. ARTM 1012-2

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 13, 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 October 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 5, 2002.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Commissioner. 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.

The file is now being forwarded to the Office of Initial Patent Examination.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HAYNES BEFFEL & WOLFELD, LLP
P.O. BOX 366
HALF MOON BAR, CA 94019

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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Parsons, Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake UT 84145-0898

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Dixon et al :
Application No.10/229,907 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket Number: 6080.1 P :
Title of Invention: Articulating Diamond-Surfaced Spinal Implants :

This is a decision on the petition filed December 20, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 17, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 18, 2006. 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**.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

Daniel McCarthy
P.O. Box 71550
Salt Lake City, UT 84171-0550

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OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Swee Kwang Chua et al :
Application No. 10/229,914 : ON PETITION
Filed: August 27, 2002 :
Attorney Docket No. 2269-5377US (2-0388) :

This is a decision on the petition, filed January 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 October 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2822 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).

SCANI Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/07

Paper No.: _____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229914 Patent No.: 6964881

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2822 Art Unit

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/07

Paper No.: _____

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229914 Patent No.: 6964881

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Henry Randall
SPE

2822
Art Unit

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/07

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/229914 Patent No.: 6964881

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

[signature] SPE

2822 Art Unit

PTOL-306 (REV. 7/03)

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Paper No. 6

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MAR 2 6 2003

OFFICE OF PETITIONS

MARK J. SPOLYAR
38 FOUNTAIN ST.
SAN FRANCISCO, CA 94114

In re Application of :
Belser et al. : DECISION GRANTING
Application No. 10/229,922 : PETITION UNDER
Filed: August 28, 2002 : 37 CFR 1.47
Attorney Docket No. 6553/53713 :
For: FREE-SPACE DYNAMIC :
WAVELENGTH ROUTING SYSTEMS :
WITH INTERLEAVED CHANNELS FOR :
ENHANCED PERFORMANCE :

This is in response to the petition under 37 CFR 1.47(a) filed September 20, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application 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 file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark J. Spolyar
38 Fountain Street
San Francisco, CA 94114

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Karl Belser :
Application No.: 10/229,922 :
Filed: August 28, 2002 :
Attorney Docket No.: 6553/53713 :
For: FREE-SPACE DYNAMIC :
WAVELENGTH ROUTING SYSTEMS :
WITH INTERLEAVED CHANNELS FOR :
ENHANCED PERFORMANCE

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed March 2, 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 November 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on February 23, 2006.

On March 2, 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

Copied from 11229922 on 06/29/2006

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Law Office of Mark J. Spolyar
2200 Cesar Chavez Street
Suite 8
San Francisco, CA 94124

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OFFICE OF PETITIONS

In re Application of
Karl Arnold Belser
Application No.: 10/229,922
Filed: August 28, 2002
Attorney Docket No.: 6553/53713
For: FREE-SPACE DYNAMIC WAVELENGTH ROUTING SYSTEMS WITH INTERLEAVED CHANNELS FOR ENHANCED PERFORMANCE

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 -Request to Withdraw the Holding of Abandonment" filed August 25, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed November 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on February 23, 2006.

A review of the application file (Image File Wrapper) reveals that applicant submitted a petition to revive under 37 CFR 1.137(b), issue fee, and publication fee on March 2, 2006. The petition under 37 CFR 1.137(b) was granted by the United States Patent and Trademark Office in a Decision on Petition dated May 17, 2006. Therefore, the subsequent mailing of the Notification of Abandonment (dated June7, 2006) was sent in error and is hereby withdrawn.

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED** and the Notification of Abandonment is hereby **VACATED**.

The application is being referred to the Office of Publications. Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

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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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Bollepalli, Srinivas :
Application No. 10/229,933 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 03234.0002U2 :

This is a decision on the petition under 37 C.F.R. § 1.182, filed August 3, 2005, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from **BOLLEPALLI SRINIVAS** to **SRINIVAS BOLLEPALLI.**

The citizenship of the inventor will also be changed from **INDIA** to the **UNITED STATES OF AMERICA.**

Petitioner submitted $130.00 towards payment of the petition fee. However, the petition fee is $400.00. Accordingly, an additionally $270.00 was charged to petitioner's deposit account as authorized.

This matter is now being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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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NEEDLE & ROSENBERG PC
999 PEACHTREE STREET, SUITE 1000
ATLANTA, GA 30309-3915

In re Application of	:	
Srinivas Bollepalli	:	
Application No. 10/229,933	:	DECISION GRANTING PETITION
Filed: August 28, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03234.0002U2	:	

This is a decision on the petition, filed July 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 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 1755 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\july9\229933.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

EASTMAN & ASSOCIATES
SUITE 306
520 WEST ASH STREET
SAN DIEGO CA 92101

MAILED

MAY 2 0 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Chao et al. :
Application No. 10/229,955 :
Filed: August 27, 2002 :
For: PHOTOCONDUCTOR-ON-ACTIVE-PIXEL (POAP) SENSOR UTILIZING A MULTI-LAYERED RADIATION ABSORBING STRUCTURE :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 21, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

Gary L. Eastman is removed from the record. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: E-PHOCUS, INC.
4030 MOORPARK AVENUE, SUITE 240
SAN JOSE, CA 95117

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 5

EASTMAN & ASSOCIATES
Suite 306
520 West Ash Street
San Diego, CA 92101

JUL 1 2003

In re Application of:
CHAO *et al.*
Application No. 10/229,956
Filed: August 27, 2002
Attorney Docket No.: 1328-PA02

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed on April 21, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Gary L Eastman, on behalf of himself. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to, T.C. Hsieh, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: T.C. Hsieh
E-Phocus, Inc.
4030 MoorPark Avenue, Suite 200
San Jose, CA 95117

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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VERTEX PHARMACEUTICALS INCORPORATED
130 Waverly Street
Cambridge MA 02139-4242

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Amelia A. Owens :
Application No. 10/229,981 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. VPI/00-110 CON :

This is a decision on the petition under 37 CFR 1.137(b), filed facsimile on December 21, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed December 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 16, 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 petition; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee, which was submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : March 31, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Roderick Swift et al
Application No. :10/229,993
Filed :August 28, 2002

The above-identified application has been assigned Patent No. RE38725 and an issue date of April 19, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 19, 2005:

"All reference to Patent No. RE38725 to Roderick Swift et al of Massachusetts for MOBILE X-RAY INSPECTION SYSTEM FOR LARGE OBJECTS appearing in the Official Gazette of April 19, 2005 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-746-6827)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Roderick Swift et al :
Application No. 10/229,993 : ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. 1945/A27 :

This is a decision on the petition, filed March 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2882 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
MOORE, Scott E. :
Application No. 10/230,045 : DECISION ON PETITION
Filed: August 28, 2002 : TO WITHDRAW
Attorney Docket No. : 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 05, 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 David Cochran on behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **SCOTT E. MOORE**
1840 E. MARY LANE
MERIDIAN, ID 83642-7034

cc: **VICTOR SANTOS**
GREENBERG TRAURING, LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA, CA 90404

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Eugene F. Friedman
Monadnock Building
Suite 1633
53 West Jackson Boulevard
Chicago IL 60604

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MAY 09 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Glenn H. Lewis
Application No. 10/230,047
Filed: August 26, 2002
Attorney Docket Number: L31-1

Title of Invention: Water Wax Emulsion Cleaner and Waxer

This is a decision on the petition filed November 10, 2004, under 37 CFR 1.137(a) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, which was mailed June 16, 2004 and set a 3 month statutory period for reply. Extensions of time were not available under 37 CFR 1.136 (a). Accordingly, this application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on October 21, 2004.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the 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 if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

In the present petition, petitioner argues the issue fee was unavoidably delayed due to the clerical error of his wife, partner Gail Tuler Friedman (Mrs Friedman is not licensed to practice before the US Patent Office). Petitioner contends that he maintained a docket which consisted of a double calendar in which the date the issue fee was noted. The applicant dropped off a check to pay the issue fee on September 13, 2004. Petitioner did not look at the check provided until after returning from a bar association meeting at 2:20 pm. Petitioner took no action on September 13, 2004 because he had a doctor's appointment. Petitioner indicates that he was suffering from a malady. Petitioner returned to the Office briefly and thereafter went home because he states he was not in any condition to do any further work. The next day petitioner returned to work on a memorandum associated with a different case. Petitioner gave his secretary the file of the above-identified application and asked his secretary to place the file in the chair of Mrs. Friedman. Petitioner contends he did this to make sure the issue fee was paid.

Petitioner states Mrs. Friedman performs the duties of a law clerk for the payment of issue and maintenance fees for patents and patent applications. Petitioner contends he informed Ms. Friedman that the issue fee needed to be paid by September 14, 2004. However, Ms. Friedman was only briefly in the Office on September 14, 2004 such that she did not sit in her chair or move the file. She did however notice the file. Ms. Friedman insist that she was not aware the issue fee needed to be paid within two days. Ms. Friedman did not return to the Office until September 20, 2004 after observance of Rosh Hashanah. Petitioner did not return to his Office until September 20, 2004.

Petitioner contends he became virtually disabled on Monday September 27, 2004 and subsequently underwent surgery on October 5, 2004. Petitioner states he did not return to work until October 18, 2004. Petitioner insist the failure to timely submit the issue fee was due to the unexpected and unforseen failure of himself and his law partner, thus making it unavoidable.

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[2]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner's argument has been considered but it has been determined to not meet the showing required for unavoidable delay. Petitioner cannot establish with sufficient evidence that a Ms. Friedman was ever told to pay the issue fee in two days. The facts presented shows that Ms. Friedman states she does not recollect being told that the issue fee needed to be paid within two days. As such, at best the failure to pay the issue fee was due to a mis-communication between an attorney and his staff. The alternative is that the attorney failed to inform Ms. Friedman to pay the issue fee. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[4] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[5] Thus the failure to inform Ms. Friedman to pay the issue fee within two days would not be unavoidable.

A delay resulting from an clerical error on the part of an employee in the performance of a clerical function may provide the basis for a showing of unavoidable delay provided it is shown that :

a) the error was the cause of the delay at issue;

b) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

c) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Assuming arguendo, Ms. Friedman was informed the issue fee needed to paid within two days, it has been determined that sufficient facts have not been provided to establish unavoidable delay due to clerical error. As to item (a), petitioner argues that the issue fee was not timely submitted because there was a clerical error. However the facts do not support such a finding. Ms. Friedman acknowledges that she was aware a file was in a chair but decided not to take any action until September 20, 2004 , four days after the application was abandoned. Thus it seems this was not due to error but due to an intentional act to not address this particular application as the firm's most important business.

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[4] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[5] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

As to item (b), petitioner states the business routine in place for payment of issue fees includes the attorney's double docketing of the due date of the issue fee, Ms Friedman preparation of the papers for the filing of the issue fee and Ms Friedman mailing of the documents to the USPTO after obtaining the attorney's signature. However, the information provided in the petition does not establish what business routine was in place for performing the clerical function of preparing the issue fee transmittal form. How and when was Ms. Friedman informed that an issue fee payment was required? How did Ms. Friedman prepare the required documents? What was the general turn around time after Ms. Friedman was informed that an issue fee was due? Did Ms. Friedman cut checks? Does petitioner normally sign the issue fee prior to giving the form to Ms. Friedman or after? Does the business routine normally include the placing of the file in a chair? In addition petitioner should also provide what business routine was in place for performance of clerical functions with regard to holiday coverage. It was foreseeable that petitioner and Ms. Friedman would be absent from the Office.

As to item (c), petitioner has failed to establish that Ms. Friedman was sufficiently trained and experienced to perform the clerical function in question. It is recognized that Ms. Friedman is a licensed attorney, however no evidence has been provided to establish she had sufficient training and experience to handle this clerical function. Petitioner needs to provide sufficient facts and evidence to establish there was justified reliance on Ms. Friedman's capabilities. The degree of supervision of Ms. Friedman's work, examples of other clerical work functions carried out and checks on the described work which were used to assure proper execution of assigned tasks.

While it is unfortunate petitioner has suffered from medical maladies, petitioner's focus on other cases and holiday vacation shows that petitioner was preoccupied with other matters and such preoccupation does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538.

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR § 1.137(a).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required 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 pursuant to 37 CFR § 1.137(b) was unintentional.

The filing of a petition under 37 CFR § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Eugene F. Friedman
Monadnock Building
Suite 1633
53 West Jackson Boulevard
Chicago IL 60604

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AUG 19 2005

OFFICE OF PETITIONS

In re Application of :
Glenn H. Lewis :
Application No. 10/230,047 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket Number: L31-1 :
Title of Invention: Water Wax Emulsion :
Cleaner and Waxer :

This is a decision on the renewed petition under 37 CFR §1.137(a), filed June 29, 2005 to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, which was mailed June 16, 2004 and set a 3 month statutory period for reply. Extensions of time were not available under 37 CFR 1.136 (a). Accordingly, this application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on October 21, 2004. A petition under 37 CFR 1.137(a) was dismissed on May 9, 2005.

The requirements for a grantable petition under 37 CFR §1.137(a) have been met. This petition is hereby Granted.

The Office is in receipt of the change address submitted with the instant petition, however a review of the application file shows a power of attorney has not been filed in this application. While a declaration was filed on August 28, 2002 , the declaration does grant power of attorney to attorney Friedman. The declaration merely authorizes all correspondence to be mailed to the address of attorney Friedman. Accordingly, the change of correspondence address cannot be entered. A change of correspondence address or a document granting access (i.e., a power to inspect) may only be signed by

an attorney or agent who is not of record if an executed oath or declaration has not been filed in the application. See 37 CFR 1.33(a) (correspondence address) and 1.14(d)(4). If a power of attorney has been previously filed, petitioner should submit a copy.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Eugene F. Friedman
Friedman & Friedman, LTD.
The 566 West Adams Building-Suite 250
566 West Adams Street
Chicago, Illinois 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W.
Suite 600
Washington, DC 20036-1649

JUL - 2 2004

In re Application of:
Gerald B. Roberts
Serial No.: 10/230,082
Filed: August 29, 2002
Attorney Docket No.: 44010

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on August 27, 2003. There is no fee for this petition.

The petition is GRANTED.

The application was held abandoned for failure to file a proper reply to the Office action mailed on December 31, 2002. A Notice of Abandonment was mailed on July 28, 2003.

Petitioner asserts that a response to the Office action of December 31, 2002 was timely submitted to the United States Patent and Trademark Office (USPTO). To support this assertion, petitioner has submitted a copy of the response (an amendment) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the USPTO on March 31, 2003.

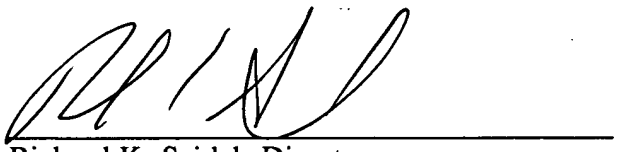
A review of the application file record reveals that the above-identified response having been acknowledged as being received in the USPTO on March 31, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly 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." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed July 28, 2003 is hereby VACATED and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on August 27, 2003 is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for appropriate action in due course.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/230,091	08/29/2002	Thuan H. Bui	1224.42027X00	3590

7590 03/01/2010

Hung H. Bui Esq.
STEIN, McEWEN & BUI, LLP
1400 EYE ST. N.W.
Suite 300
Washington, DC 20005

EXAMINER	
CHAPMAN, JEANETTE E	

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
03/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte THUAN H. BUI

Appeal 2009-013498
Application 10/230,091
Technology Center 3600

Mailed: March 1, 2010

DECISION ON PETITION

This is a decision on the Petition to the Chief Administrative Patent Judge Under 37 C.F.R. § 41.3, filed January 12, 2010 ("Petition"). The Petition seeks:

1. Entry of the Examiner's Answer entered October 21, 2008;
2. Entry of Appellant's Reply Brief filed January 21, 2009; and
3. "Disregard" of the Examiner's Answer entered June 12, 2009.

FINDINGS

1. On October 31, 2007, the Examiner entered a Final Rejection.
2. On July 7, 2008, Appellant filed an Appeal Brief.
3. On September 19, 2008, the Examiner entered a Non-Final Action reopening prosecution.

4. On October 21, 2008, the Examiner entered an Examiner's Answer responsive to the Appeal Brief of July 7, 2008.

5. On January 12, 2009, Appellant filed a Reply Brief responsive to the Examiner's Answer of October 21, 2008.

6. On May 5, 2009, the Deputy Chief Appeals Administrator of the Board of Patent Appeals and Interferences ("Board") entered an Order Returning Undocketed Appeal to Examiner, noting inconsistencies between the Non-Final Action of September 19, 2008 and the Examiner's Answer of October 21, 2008. The Order required, *inter alia*, that the Examiner vacate either the Non-Final Action or the Examiner's Answer.

7. On June 12, 2009, the Examiner entered a communication vacating the Examiner's Answer of October 21, 2008.

8. Also, on June 12, 2009, the Examiner entered a new Examiner's Answer that "employs the non-Final rejection mailed September 19, 2008." Ans., p. 3.

9. On August 3, 2009, the Board entered a Docketing Notice for the Appeal.

DISCUSSION

From the foregoing, it is clear that the Examiner has vacated and does not rely on the Examiner's Answer of October 21, 2008. Further, in the Examiner's Answer of June 12, 2009, the Examiner clearly stated that the rejections that are the subject of the Appeal are the rejections set forth in the Non-Final Action of September 19, 2008. Appellant has never responded to or appealed from such rejections.

Also, since the Examiner's Answer of June 12, 2009 presented rejections which have never been addressed by Appellant, entry of the Docketing Notice was improper.

DECISION

In view of the foregoing, the Petition is DENIED, the Docketing Notice of August 3, 2009 is vacated, and the application is returned to the Technology Center for appropriate action.

Michael R. Fleming
Chief Administrative Patent Judge

Hung H. Bui
Antonelli, Terry, Stout & Kraus, LLP
1300 North 17th Street, Suite 1800
Arlington, VA 22209

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Paper No. 5

Christine Szwerc
AT & T Corporation
P.O. Box 4110
Middletown, NJ 07748

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MAY 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Matthew J. SHERMAN :
Application No. 10/230,116 : DECISION GRANTING PETITION
Filed: August 29, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 2455-4709 :

This is a decision on the petition, filed May 13, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 29, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 was mailed on May 22, 2003.

Any inquiries concerning this decision may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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11377 WEST OLYMPIC BOULEVARD
LOS ANGELES CA 90064-1683

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of	:	
Toshi K. Uchida et al	:	
Application No. 10/230,141	:	ON PETITION
Filed: August 27, 2002	:	
Attorney Docket No. DE006	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/814,011, filed March 31, 2004.

Petitioner must notify the Office if the above continuing application number and filing date is incorrect.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 13 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Toshiyuki Mitsudomi	: FOR PATENT TERM ADJUSTMENT
Application No. 10/230,146	: AND NOTICE OF
Filed: August 29, 2002	: INTENT TO ISSUE
Patent No. 7,177,035	: CERTIFICATE OF CORRECTION
Issued: February 13, 2007	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT", filed March 29, 2007.

The application for patent term adjustment 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 **seven hundred sixty-two (762)** days.

On September 26, 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 was seven hundred seventy-one (771) days. Applicant filed a good faith and candor letter on December 12, 2006, stating that the patent term adjustment should be seven hundred sixty-two (762) days. The application issued into Patent No. 7,177,035 on February 13, 2007, with a patent term adjustment of seven hundred seven (707) days.

The Office determined a patent term adjustment of seven hundred seven (707) days based on an adjustment for PTO delay of seven hundred seventy-seven (777) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by six (6) days of Applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8) and sixty-four (64) days of Applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The adjustments of six (6) and sixty-four (64) days are at issue.

Applicant filed a good faith and candor letter on December 12, 2006, setting forth that he should have been assessed delay of fifteen (15) days, not six (6) days. The Office mailed a final action on June 2, 2006. Applicant filed an Amendment on August 24, 2006, which placed the application in condition for allowance. Applicant subsequently filed a Supplemental Amendment on September 8, 2006. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(8), fifteen (15) days of applicant delay should have been assessed, not six (6) days. The Office thanks Patentee for his good faith and candor in bringing this matter to the Office's attention.

However, Applicant was assessed sixty-four (64) days of delay for filing the good faith and candor letter. Pursuant to 37 C.F.R. 1.704(e), the filing of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution. Accordingly, Applicant should not have been assessed any delay for this filing.

The matter is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seven hundred sixty-two (762)** days, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,177,035 B2

DATED : February 13, 2007

INVENTOR(S) : Mitsudomi, et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (707) days

Delete the phrase "by 707 days" and insert – by 762 days—

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/230,156	08/29/2002	Antonio-Helio Waszyk	88265-7105	2066

28765 7590 07/16/2004

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Mailed:

BC
Paper Number:

In re application of
Antonio-Heli Waszyk et al.
Serial No. 10/230,156
Filed: August 29, 2002
For: DOUGH EXTRUSIONS FOR PRODUCING BAKED PRODUCTS HAVING MULTIPLE TEXTURES

DECISION ON PETITION

This is a decision on the Petition filed on April 6, 2004. The Petition requests the Office action dated August 18, 2003 be remailed and the period of response be restarted.

DECISION

A review of the application record and the Petitioner's evidence indicates that the request has merit and is sufficient to establish that the Office action of August 18, 2003 was not received. The evidence provided includes a copy of the docket record where the non-received Official Action would have been entered had it been received. Petitioner also submitted a copy of the file jacket of the above-captioned application, which reveals that no additional entry concerning an Official Action has been made.

The petition is **GRANTED**.

The Final rejection of August 18, 2003 will be remailed and the period for responding to such final rejection will be restarted from the date of the new mailing.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jeffrey A. Wolfson
Winston & Strawn LLP
Patent Department
1400 L Street, N.W.
Washington, DC 20005-3502
PATENT DEPARTMENT

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OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

In re Patent No. 6,786,987 :
Issue Date: September 7, 2004 :
Application No. 10/230,216 : DECISION ON PETITION
Filed: August 29, 2002 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed May 14, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued September 7, 2004. Accordingly, the first maintenance fee could have been paid during the period from September 7, 2007 through March 7, 2008 without surcharge, or with a late payment surcharge during the period from March 8, 2008 through September 7, 2008. No maintenance fee having been received, the patent expired on September 8, 2008.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted

and the above-identified patent is hereby reinstated as of the mail date of this decision.

The $1,640 petition surcharge and the $980 maintenance fee have been charged to Deposit Account No. 50-3939, as authorized.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Law Offices of Brian S. Steinberger
101 Brevard Avenue
Cocoa, FL 32922

In re Application of: Nassar
Application No.: 10/230,233
Filed: August 28, 2002
Attorney Docket No.: PC-1234
For: ARMORED DATA SERVICES

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This is a decision on the petition filed March 11, 2005 to have correspondence deemed to have been timely filed under 37 CFR § 1.8(b).

A non-final Office action was mailed December 19, 2003. Although a Notice of Abandonment has not yet been mailed, there is no record of a proper response to the December 19, 2003 action prior to the November 19, 2004 amendment (copy) and response by Petitioner.

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence will be considered timely filed if petitioners meet at least three conditions:

1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence.
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Petition and evidence submitted March 11, 2005, includes: after becoming aware upon telephone inquiry on November 29, 2004 by the examiner, prompt notification to the Office (see copy of response filed November 29, 2004); a copy of the previously mailed correspondence with March 19, 2004 certificate of mailing (37 CFR §1.8(a)); as well as a statement by Attorney Brian S. Steinberger that attests on a personal knowledge basis to the previous timely mailing on

March 19, 2004 of the response to the Office action dated December 19, 2003 in application Serial No. 10/230,233.

In view of the above stated reasons, the response to the non-final Office action submitted on March 19, 2004 is hereby accepted since the Office apparently never received or misplaced the response originally submitted.

The petition is **GRANTED**.

This application file is being forwarded to the Group technical support staff for entry of the copy of the amendment in place of the original. From there, the application file will be forwarded to the examiner for appropriate action in due course.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 3/15/05

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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OFFICE OF PETITIONS

Applicant: Vaarstra et al.
Appl. No.: 10/230,243
Filing Date: August 28, 2002
U.S. Patent No.: 7,030,042
Issue Date: April 18, 2006
Title: SYSTEMS AND METHODS FOR FORMING TANTALUM OXIDE LAYERS AND TANTALUM PRECURSOR COMPOUNDS
Attorney Docket No.: 150.01350101
Pub. No.: US 2004/0043636 A1
Pub. Date: March 4, 2004

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on April 19, 2004, for the above-identified application.

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 7,030,042 on April 18, 2006, the request is deemed moot.

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

[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).

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ROBERT V. VICKERS
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE - SEVENTH FLOOR
CLEVELAND, OH 44114-2579

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OFFICE OF PETITIONS

In re Application of :
David L. Stephens, et al. :
Application No. 10/230,323 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. UMEE 212966-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a continuation application filed April 18, 2005. As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of continuing application No. 11/108,178 filed April 18, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22320

In re Application of :

Ram Rajasekharan :
Application No. 10/230,331 : DECISION ON PETITION
Filed: August 29, 2002 : TO WITHDRAW
Attorney Docket No. 110522 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The address of record remains unchanged.

The attorneys/attorneys associated with the firm Oliff & Berridge remain of record.

There is an outstanding Office action mailed June 2, 2006 that requires a reply from the attorneys/agents of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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505 9TH STREET NW
SUITE 1000
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OFFICE OF PETITIONS

In re Application of :
Kennedy, et al. :
Application No. 10/230,333 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. GRA26 001 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 4, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed January 11, 2008. This Office action set a shortened statutory period for reply of three (3) months. On May 2, 2008, after the three month period had expired, applicants filed a "PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION UNDER MPEP § 710.06I AND 37 C.F.R. § 1.8". No further reply with an extension of time having been received, the application became

abandoned on April 12, 2008. The Office mailed a Notice of Abandonment on December 9, 2008.

Applicants argue that the application shouldn't be abandoned, in view of their Petition to Reset the Period for Reply filed on May 2, 2008. As they set forth in their petition, applicants never received the Office action at the correspondence address of record, and only learned of it after performing a routine status review of the application on PAIR on April 18, 2008. At that time, they printed out the Office action, and filed the petition to reset two weeks later.

However, MPEP 710.06I does not cover the situation where an Office action was simply not received at the address of record, but applicants learned of the existence of the Office action through PAIR, a status call to the Office, a courtesy copy sent via facsimile by the Examiner, etc. Moreover, pursuant to 37 CFR 1.181(e), applicants can not merely let the extendable period for reply to expire while waiting to receive a decision on their petition.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master 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 nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the

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[1] MPEP 711.03(c).

application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Accordingly, to establish non-receipt of the Office action, Applicants must submit a master docket report showing all of their replies docketed for a due date of April 11, 2008.

While the showing of record is not presently 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); 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 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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WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of :
Kennedy, et al. :
Application No. 10/230,333 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. GRA26 001 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), both filed May 15, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed January 11, 2008. This Office action set a shortened statutory period for reply of three (3) months. On May 2, 2008, after the three month period had expired, applicants filed a "PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION UNDER MPEP § 710.06I AND 37 C.F.R. § 1.8". No further reply with an extension of time having been received, the application became abandoned on April 12, 2008. The Office mailed a Notice of Abandonment on December 9, 2008. Applicant filed a petition to withdraw the holding of abandonment on February 4, 2009. However, the petition was dismissed in a decision mailed on March 30, 2009.

Petition Under 37 CFR 1.181:

On renewed petition, petitioner states that he did not receive the Office action. In support thereof, petitioner has included a copy of a docket report for the instant application.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of **the master 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 nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question (emphasis added).

As petitioner did not submit a copy of the master docket report showing all of the firm's replies docketed for a due date of April 11, 2008.

Petition Under 37 CFR 1.137(b):

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $810 for a small entity; (3) A statement that the entire delay in filing the

---

[1] MPEP 711.03(c).

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the January 11, 2008 Office action.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

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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In re Application of :
Kennedy, et al. :
Application No. 10/230,333 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. GRA26 001 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed January 15, 2010.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed January 11, 2008. This Office action set a shortened statutory period for reply of three (3) months. On May 2, 2008, after the three month period had expired, applicants filed a "PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION UNDER MPEP § 710.06I AND 37 C.F.R. § 1.8". No further reply with an extension of time having been received, the application became abandoned on April 12, 2008. The Office mailed a Notice of Abandonment on December 9, 2008. Applicant filed a petition to withdraw the holding of abandonment on February 4, 2009. However, the petition was dismissed in a decision mailed on March 30, 2009. Applicant the filed a petition to withdraw the holding of abandonment, or in the alternative to revive, on May 15, 2009, which was dismissed in a decision mailed on November 18, 2009.

With the instant petition, petitioner has submitted a copy of all the firm's replies docketed for a due date of April 11, 2008. An entry for the instant application does not appear, supporting the conclusion that the January 11, 2008 Office action was not received.

In view thereof, the holding of abandonment is **WITHDRAWN**.

The application is being forwarded to Group Art Unit 2617 for consideration of the Amendment, filed January 15, 2010.

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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Scott Sinclair Barclay	: DECISION ON REQUEST FOR
Patent Number	: 7582317	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/230,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:07212005

DATE : July 21, 2005

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 6,846,845

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Christopher S. F. Low

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Christopher Low **Art Unit** 1614

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

MAY 2 8 2003

OFFICE OF PETITIONS

In re Application of
Khavkine and Isman
Application No. 10/230,364
Filed: August 28, 2002
Attorney Docket No. 74769
For: FLOWABLE FLAX BAST FIBER AND FLAX SHIVE BLEND USEFUL AS REINFORCING AGENT

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 11, 2003 (certificate of mailing March 6, 2003). Petitioner obtained a three-month extension of time. Therefore, the petition is considered timely filed.

The petition is granted.

Petitioner has shown that Barbara Isman, 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. Krueger establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUL 27 2007

OFFICE OF PETITIONS

In re Patent No. 6906986	:	
Issue Date: 06/14/2005	:	
Application Number: 10/230373	:	ON PETITION
Filing Date: 08/29/2002	:	
Attorney Docket Number:	:	
1293.1450	:	

This is a decision on the petition under 37 CFR 1.182, filed on 4 June, 2007, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 14 June, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

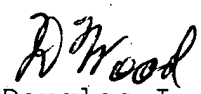
Although petitioners' counsel states that there is no record of the Letters Patent being received in counsel's office,

petitioners have not provided sufficient supporting documentation (*i.e.*, a copy of the docket record or file jacket where the Letters Patent would have been entered had it been received must be attached to and referenced in practitioner's statement) showing that the original Letters Patent was not received.

Nevertheless, as petitioner has submitted the petition fee, the petition is granted.

A copy of this decision is being forwarded to the Office of Patent Publication for issuance of a duplicate Letters Patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower 8C32 (FAX 571-270-9937)

UNITED STATES 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.
WASHINGTON, DC 20037-3213

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Shimomura, et al. :
Application No. 10/230,374 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. Q71712 :

This is a decision on the papers styled, "Petition To Correct Filing Date," filed February 17, 2005 (originally submitted May 24, 2004), which has been treated petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 29, 2002, including pages 44 and 54 of the specification.

The application was filed on August 29, 2002. However, on October 2, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Missing Parts Of Nonprovisional Application" that stated the application had been accorded a filing date, but page 54 of the specification appears to have been omitted. On December 23, 2002, OIPE mailed a "Withdrawal Of Previously Sent Notice" and a "Notice Of Omitted Item(s) In A Nonprovisional Application" that stated page 44 of the specification appears to have been omitted.

A review of the application file indicates both page 44 *and* page 54 of the specification appear to have been omitted from the application papers submitted on August 29, 2002. Neither page is found with the application papers submitted on that date.

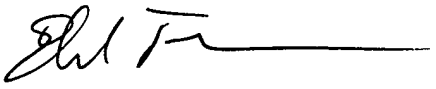
In response to the Notices, on February 17, 2005, the instant petition was filed. Copies of pages 44 and 54 of the specification have been previously submitted. The petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "# Pgs. Spec/Abst: 64/1" (total: 65 pages) on August 29, 2002. A review of the application file indicates the presence of sixty-three (63) pages of specification, claims and abstract, submitted on August 29, 2002, with pages 44 and 54 of the specification missing. It is assumed that pages 44 and 54 of the specification were misplaced by the Office.

In view of the above, the petition is granted.

The petition fee has not been charged.

USPTO records indicate that the presently accorded fling date of the above-identified application is August 29, 2002. As such, no change to the filing date of record is required.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of :
Keith Walter Bruninga, et al. :
Application No. 10/230,393 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. 66072-006 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 21, 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 drawings in a timely manner in reply to the Notice of Allowance/Notice of Allowability mailed June 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR - 3 2005

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BOMBARDIER RECREATIONAL PRODUCTS INC
INTELLECTUAL PROPERTY DEPT
PO BOX 230
NORTON, VT 05907-0230

MAILED

MAR 3 2005

OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Anton Pichler	:	
Serial No. 10/230,408	:	NOTICE OF WITHDRAWAL
Filed: August 29, 2002	:	FROM ISSUE
For: INDUCTION SYSTEM FOR A FOUR CYCLE ENGINE	:	UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after the payment of the issue fee due to unpatentability of one or more claims.

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 Examiner Campbell at (703) 605-4264.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Technology Center 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 15, 2009

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/230417 Patent No.: 7297768

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Art Unit 1646 /1647

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON, DC 20001-4413

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of :
Akihito Yamamoto et al :
Application No. 10/230,423 : DECISION GRANTING PETITION
Filed: August 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.2882 :

This is a decision on the petition, filed May 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\230423.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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OCT 13 2006

OFFICE OF PETITIONS

In re Application of :
Lars Thougaard Kristensen et al :
Application No. 10/230,428 : ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 6354.200-US

This is a decision on the petition filed, October 6, 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 4, 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 3767 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
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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FEB 21 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Theodore O. Haas
46 Meadows Lane
Haverford, PA 19041

In re application of	:	**DECISION ON PETITION**
Theodore O. Haas	:	**TO MAKE SPECIAL**
Application No. 10/230,446	:	**(APPLICANT'S AGE)**
Filed: August 30, 2002	:	
For: INEXPENSIVE SNOWPLOW	:	

This is a decision on the petition submitted on August 30, 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 IV: Applicant's Age

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed statement from the applicant stating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if

petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kd/nlw: 2/14/l03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 6

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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JUN 23 2004

OFFICE OF PETITIONS

In re Application of :
Chen-Yu Chi :
Application No. 10/230,468 :
Filed: August 29, 2002 :
Attorney Docket No. 10020370-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 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 mailed October 2, 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 December 3, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-13-10

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/230474 Patent No.: 6777730

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

LT	☒ **Approved**	**All** changes apply.
	☐ **Approved in Part**	Specify below which changes **do not** apply.
	☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Steve Lobo 2818
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

BARNES & THORNBURG, LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

In re Application of :
David J. Eyre, et. al. :
Application No. 10/230,489 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. 7475-71278 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 8, 2006, to revive the above-identified application. The delay in responding is regretted.

The above application became abandoned for failure to file a proper reply to the final Office action mailed May 19, 2005. A Notice of Abandonment was mailed on March 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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**.

This application is being revived for consideration of the RCE filed on November 23, 2005.

The Power of Attorney filed on April 13, 2007 has been accepted and made of record.

The 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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P.O. Box 1450
Alexandria, VA 22313-1450
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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Shoaib H. Zaidi, et al. :
Application No. 10/230,493 :
Filed: August 29, 2002 :
Attorney Docket No. 01 P 14620 US (8055-104) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) two (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. 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.

Petitioner is advised that effective December 8, 2004, the issue fee payment increased to $1400 for a large entity status.

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:

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Marie-Claire Maple
3000 CentreGreen Way
Cary, NC 27513

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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INFINEON TECHNOLOGIES NORTH AMERICA CORP.
3000 CENTREGREEN WAY
CARY, NC 27513

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Shoaib H. Zaidi, et al. :
Application No. 10/230,493 :
Filed: August 29, 2002 :
Attorney Docket No. 2001P14620US :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 12, 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 May 25, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 26, 2004.

The Revocation of Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Fisher, et al. :
Application No.: 10/230,514 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No: **TUC920020089US1** :

This is a decision on the petition under 37 CFR §1.137(b), February 7, 2007, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action, mailed June 16, 2006, which set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 17, 2006.

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.

Examiner Jared Rutz has determined that the amendment filed February 7, 2007, fails to place the application in condition for allowance. Accoridngly, the requirement that a proper response to the final Office action accompany the petition is not satisfied. Any renewed petition must be accompanied by a proper response to the final Office action.

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

Questions concerning the amendment should be directed to Examiner Rutz. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Fisher, et al.

Application No. 10/230,514

Filed: August 29, 2002

Attorney Docket No. TUC920020089US1

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 30, 2007[1], to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to respond to the final Office action mailed June 16, 2006, which set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on September 17, 2006. A petition under 37 CFR 1.137(b) was first filed on February 7, 2007, and dismissed by a decision mailed July 6, 2007.

Examiner Jared Rutz has determined that the amendment filed November 30, 2007, places the application in condition for allowance.

The fee for the instant petition was charged twice. The amount of $1500.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2100, GAU 2187 for further processing.

[1] It is noted that the renewed petition was transmitted to the USPTO via facsimile on September 6, 2007, although the renewed petition is not noted in the application file. The petition filed September 6, 2007, was filed in application 10/250,514 as that was the application serial number cited on the coversheet.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions